From:

ROC - Registered Org Commission

Sent:

Thursday, 12 October 2017 3:40 PM

Subject:

Education and advice campaign - notification of changes to records within prescribed

timeframe [SEC=UNCLASSIFIED]

Attachments:

Letter to orgs_Notifications of Change.pdf; Fact Sheet_Notification of changes.pdf; Guidance Note_notifications of change.pdf; Legislative Summary_Notifications of

Change.pdf

Good afternoon,

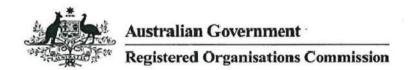
Please find attached correspondence for the Secretary or other prescribed office holder, providing education and advice regarding the obligation to notify the Registered Organisations Commission (the ROC) of changes to the records of a registered organisation.

Kind regards,

Office of the Registered Organisations Commission

Tel: 1300 341 665 regorgs@roc.gov.au

GPO Box 2983, MELBOURNE VIC 3001 | 414 Latrobe Street, Melbourne Victoria 3000



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12 October 2017

Dear Secretary (or prescribed office holder),

Education and advice campaign - the obligation to notify the ROC of changes to records within the prescribed statutory time frame

I write on behalf of the Registered Organisations Commissioner to advise you about an education and advice campaign being conducted by the Registered Organisations Commission (ROC) which is designed to encourage all registered organisations and their office holders to comply with the statutory obligation to lodge timely notifications of changes to records, contained in section 233(2) of the *Fair work (Registered Organisations) Act 2009* (the RO Act).

The ROC has become increasingly concerned about systemic contraventions of s.233(2) in which the lodgement of notifications are repeatedly weeks, months or even years late, or have not been lodged at all. Contraventions of this provision can give rise to risks for registered organisations and their members as a result of reduced transparency and accountability, and can expose the organisation to potential civil penalty proceedings.

As an independent regulator, the ROC's approach seeks to be fair, proportionate, objective and evidence-based. The ROC considers that compliance with statutory obligations is essential to ensure that registered organisations function efficiently, effectively and transparently.

The importance of timely notifications

The statutory obligation on registered organisations to notify the ROC of particular changes to records under s.233(2) of the RO Act has been part of the regulatory scheme in various forms for over 100 years and is currently a civil penalty provision, which means that registered organisations or their prescribed office holders may be potentially liable for any breaches.

The obligation is essential for a number of reasons including that:

- It assists members to participate in the democratic functioning and control of their organisations:
- Enables the regulator to publish information about who current office holders are; and
- It promotes accountability of office holders who are managing the funds and assets of registered organisations.

Registered organisations represent the interests of approximately 2 million members nationally. It is essential that timely information about the identity of relevant office holders is lodged in compliance with the RO Act so that the regulator and each organisation's members can be aware of which office holders are exercising management and financial responsibilities in their organisations.

The ROC and its predecessors have published the lists of office holders of registered organisations on the relevant agency's public website since at least 2003. The ROC also publishes all notifications about changes to the branches, office addresses and office holders of registered organisations lodged under s.233(2) of the RO Act. The publication of this information provides transparency to members and the general public and facilitates accountability.

Educational reference documents

The ROC is committed to providing education, assistance and advice to registered organisations as part of the functions set out in s.329AB of the RO Act. Our primary educational goal is to maximise voluntary compliance with statutory obligations under the RO Act, to promote the effective governance, accountability and transparency of registered organisations and to thereby reduce the need for enforcement action.

As one part of a strategy to assist organisations to increase voluntary compliance with the s.233(2) obligation, the ROC has recently produced some new educational guides which are **enclosed**:

- <u>Guidance Note</u> a quick reference guide in the form of a table, using scenarios where organisation staff and office holders may be unsure if they are obliged to notify changes. The table contains references to all relevant legislative provisions;
- <u>Fact Sheet</u> a separate fact sheet outlining the types of changes that need to be notified and what needs to be included with the notification;
- <u>Legislative Summary</u> a brief summary of the history of the legislative provision to notify changes, included for the purpose of understanding the historical context of the obligation.

In addition, the ROC will continue its ongoing practice of providing courtesy reminder correspondence about the requirement to notify changes to office holders, whenever we are provided with election results from the Australian Electoral Commission (**AEC**). Further, the ROC proposes to audit and continue to review compliance with this important statutory obligation.

Should you have any questions or feedback in relation to this correspondence, I can be contacted on 1300 341 665 or via regorgs@roc.gov.au.

Yours faithfully,

Chris Enright
Executive Director

Registered Organisations Commission

2

Telephone:1300 341 665 Email : regorgs@roc.gov.au Internet : www.roc.gov.au

Fact sheet

Notification of changes

The *Fair Work (Registered Organisations)* Act 2009 requires organisations of employers and employees to annually lodge certain information to the Registered Organisations Commission (the ROC). In addition, whenever any changes occur in relation to certain records, registered organisations are required to lodge a notification of change to the ROC. The change must be lodged within 35 days after the change occurs.

Records requiring notifications of any changes

If any of the following records change, the organisation must notify the ROC of the change within 35 days after the change occurs:

- the list of offices in the organisation or in a branch of the organisation
- the name, postal address or occupation of a person holding office
- the name of a branch of the organisation
- the commencement or cessation of a branch of the organisation
- the address of the office of the organisation, or the address of the office of a branch of the organisation

What does the ROC do with the information?

Records including the above information are required to be lodged by each organisation by 31 March in each year in the Annual Return of Information. Annual Returns are published under the corresponding organisation on the ROC website. This information can be found by clicking on the 'Find a Registered Organisation' tab. Notifications of changes are published in descending date order within the corresponding year's annual return document. This enables members to view the changes with reference to the complete list of office holders.

When changes must be notified

Details of any changes must be notified within 35 days after the change occurs, as prescribed by regulation 151 of the *Fair Work (Registered Organisations) Regulations 2009*.

What needs to be included?

<u>NOTE:</u> The ROC recommends use of the sample Notification of Changes template, as provided below, to help ensure that all of the required details are included in a notification of change

• The notification must be lodged with a declaration signed by the Secretary or another office holder whose duties under the rules of the organisation or branch include lodging required information to

the statutory body. The declaration must contain a statement that the information lodged is a correct statement of the changes made.

- The notification must include details of each relevant office/office holder/branch to which the changes have occurred.
- The notification must include the date the change occurred and clearly specify what the change was.
- The notification must indicate the date on which the changes occurred, as this pertains to the obligation to lodge the notification within 35 days of the change.
- For changes to office holders the following details are also required:
 - o The title of the relevant office
 - o The name of each new or former office holder
 - o the postal address of each new office holder. For privacy reasons, the ROC recommends using the postal address of the relevant organisation/branch, rather than the residential address of the person.
 - o The occupation of each new office holder
- For new branches the street address (not just a postal address) must be included.

Who can sign the declaration?

The declaration must be signed by the Secretary or another office holder whose duties under the rules of the organisation or branch include lodging required information to the statutory body. A sample declaration template is provided below under 'sample notification of change template'.

If an organisation is divided into branches or divisions, the notification of change may be made by a national office holder or the relevant branch or division office holder, depending on who has authority under the rules of the organisation to do so.

Sample Notification of Changes Template

The sample notification of change template provided below includes a sample declaration template and a sample notification table. The ROC recommends use of these documents to help ensure that all of the required information is provided.

• Sample notification of change template

Find out more

- Guidance Note ROC Quiz Answers Notifications of Change
- Legislative Summary Notifications of Change
- ROC Internal Checklist Notifications of change
- Fact Sheet Records to be kept by registered organisations
- Fact Sheet Records to be lodged annually by registered organisations

For instructions on how to lodge a notification of changes with the ROC, please refer the <u>Lodging</u> <u>Documents</u> section of our website.



GN 005 (12 October 2017)

Guidance Note

Notifications of Change ROC Quiz

Question	<u>Answer</u>	Reference *RO Act = Fair Work (Registered Organisations) Act 2009; *RO Regs = Fair Work (Registered Organisations) Regulations 2009).
1. Do organisations need to lodge a notification of changes <u>IF</u> :		
a) An elected office holder resigned but the term of office was almost over	YES – any change to the list of office holders of the organisation or a branch of the organisation must be notified within 35 days of the change.	 Section 233(2) of the RO Act; Section 230(1)(b) of the RO Act; Reg.151 of the RO Regs
b) A person leaves an office but the person replacing them will not commence for a few weeks	YES – this requires two notifications – one for the office holder leaving, and one for the person replacing them. If both changes can be notified within 35 days of the earliest change, they can be included together in just one notification, however, we recommend notifying each change as soon as possible after it occurs in order to ensure compliance.	 Section 233(2) of the RO Act; Reg.151 of the RO Regs
c) An elected national office holder relocated to a different state	YES – any change to the address of an office holder must be notified within 35 days of the change	 Section 233(2) of the RO Act; Section 230(1)(c) of the RO Act; Reg.151 of the RO Regs
d) A branch relocated to different premises	YES – any change to the office name or address of the organisation, or of a branch of the organisation, must be notified within 35 days of the change.	 Section 233(2) of the RO Act; Section 230(1)(d) of the RO Act; Reg.147(d)(ii) of the RO Regs; Reg.151 of the RO Regs
e) The Secretary's telephone number or email address changed	Not required under the legislation – however, it is beneficial to update us with any changes to contact details so we can provide alerts for upcoming lodgement dates and other important information. You can email regorgs@roc.gov.au to advise changes to telephone and email addresses.	N/A
f) A Branch office changed its' telephone number or	Not required under the legislation – however, it is beneficial to keep	N/A

in	/hat needs to be icluded in the otification?	A notification of change needs to include relevant details of the change. In relation to a change of	 Section 233(2) of the RO Act; Section 230(1)(c) of the RO Act; Reg.147 of the RO Regs
bı ur	person has been elected ut they won't take office ntil a set date in the iture	NOT YET – a notification of change needs to be lodged after the change takes effect. It must be lodged between the date it takes effect and 35 days later.	 Section 233(2) of the RO Act; Reg.151 of the RO Regs
w m	person resigned but it on't take effect for three onths	NOT YET – a notification of change needs to be lodged within 35 days after the change takes effect. This means it must be lodged between the day it takes effect and 35 days later.	 Section 233(2) of the RO Act; Reg.151 of the RO Regs
M re th As	Committee of lanagement Member esigned, but they are not ne President, Secretary, esistant Secretary or reasurer	YES – members of the Committee of Management are officers as defined in the Act. Any changes in relation to such offices must be lodged within 35 days of the date the change took place.	 Section 233(2) of the RO Act; Section 9 of the RO Act; Reg.151 of the RO Regs
j) A	person is re-elected, but a different office	YES – any <u>changes</u> to the list of office holders in the organisation or any of its' branches needs to be notified to the ROC within 35 days.	 Section 233(2) of the RO Act; Section 230(1)(c) of the RO Act; Reg.151 of the RO Regs
th al lis ar	person is re-elected to ne same office they ready held, and they are sted in the most recent nnual return list of office	NO – only changes need to be notified to the ROC	N/A
provinces the email sens	AEC has recently vided a declaration of ults for an election to organisation and the ail shows that it was also t to the ROC by the AEC entire branch is olished	changes to telephone and email addresses. YES – the organisation is still required to formally notify the ROC of any changes to the list of office holders in the organisation or any of its' branches. If an election results in any changes to the people holding offices, those changes must be formally notified within 35 days of the change. YES - the organisation is required to notify the ROC of any changes to its' list of branches; any changes to the list of offices in a branch of the organisation; and any changes to the list of names, postal addresses and occupations of people holding those offices	 Section 233(2) of the RO Act; Section 230(1)(c) of the RO Act; Reg.151 of the RO Regs Section 233(2) of the RO Act; Sections 230(1)(b), (c) and (d) of the RO Act; Regs.147(a), (c) and (e)(ii) of the RO Regs; Reg.151 of the RO Regs
prei	ferred email address	us updated with relevant contact details to facilitate ROC alerts for upcoming lodgement dates and other important information updates. You can email regorgs@roc.gov.au to advise	

	office holder, this will include the	
	date the change occurred, the title	
	of the relevant office, the name of the relevant person/people,	
	whether they have ceased or	
	commenced office, the postal	
	address of the person / people (we	
	recommend using the relevant	
	organisation/branch address for	
	privacy reasons), and the title of	
	the occupation of the person /	
	people. We recommend using the	
	Notification of Changes template,	
	which is available on the	
	Notification of Changes page of	
	the ROC website.	
Do organisations need to lodge:		
An amended list of all of the	NO – only details of the changes	Section 233(2) of the RO Act
officers	need to be lodged. If you lodge	, , = = ==
	the entire list again and do not	
	identify the changes staff of the	
	ROC will ask you to specify what	
	the changes are and when they	
	occurred	
Officers' names	YES	• Section 233(2) of the RO Act;
		• Section 230(1)(c) of the RO Act
Officers' occupation titles	YES	• Section 233(2) of the RO Act;
		• Section 230(1)(c) of the RO Act
Officers' home addresses	NO – please do not lodge their	N/A
	home addresses. The ROC	
	publishes all of the returns on the	
	website – please list their	
	professional addresses	
Officers' professional addresses	YES – this can be the address of	• Section 233(2) of the RO Act;
	the Union or Employer	• Section 230(1)(c) of the RO Act
	Association, or the relevant branch	
ONLY the changes to the	NO – notifications of change are	• Section 233(2) of the RO Act;
President, Treasurer, Vice	required in relation to <u>all offices</u> in	• Section 230(1)(c) of the RO Act;
President and Secretary	which a change has occurred.	• Section 9 of the <i>RO Act</i> ;
	Offices include Committee of	
	Management Members (however	
	named - including, for example, Directors of the Board)	
A soft copy by email and a hard	NO – the ROC only requires one	N/A
copy by post	lodgement and email is the	N/A
τοργ υγ ρυσι	preferred method. The email	
	address to lodge the notifications	
	is regorgs@roc.gov.au.	
Copies of resignations	NO – proof of leaving office is only	N/A
	required for evidence in relation to	, ·
	casual vacancy election matters.	
	Evidence is not required in relation	
	to notifications of changes.	
Does it need to be signed?	YES – the notification must	Section 233(2) of the RO Act;
	accompany a declaration stating	• Reg.150 of the RO Regs
	that the copy of records lodged is a	

O Act;
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e RO Act
O Act;
,



Guidance Note

Summary and Historical Context of the Legislative Provisions

A brief explanation of the historical context surrounding the reporting obligation to notify changes is provided below. This information is intended to promote a better understanding of the reporting obligation, as well as an understanding of some of the purposes of the obligation.

As an overview, the statutory requirement for federally registered organisations to notify the relevant regulator of changes to records:

- appears to have been part of the relevant legislative scheme for over a century,
- has varied in terms of the time periods allowed for the changes to be notified to the relevant regulator,
- is an essential, fundamental and appropriate statutory obligation which provides transparency to members and the regulator.

Summary of the current provisions relevant to notifications of changes

'RO Act' means Fair Work (Registered Organisations) Act 2009.

'RO Regs' means Fair Work (Registered Organisations) Regulations 2009.

Subsection 233(2) of the RO Act provides that:

An organisation must, within the prescribed period, lodge with the Commissioner notification of any change made to the records required to be kept under paragraphs 230(1)(b), (c) and (d), certified by declaration signed by the secretary or other prescribed officer of the organisation to be a correct statement of the changes made.

Civil penalty: 60 penalty units.

Subsections 230(1)(b), (c) and (d) of the RO Act provide that:

- (1) An organisation must keep the following records:
 - (b) a list of the offices in the organisation and each branch of the organisation;
 - (c) a list of the names, postal addresses and occupations of the persons holding the offices;
 - (d) such other records as are prescribed.

Regulation 147 of the RO Regs provides that:

For paragraph 230(1)(d) of the Act, the following records are prescribed in relation to an organisation:

- (a) a record of the name of each branch of the organisation;
- (b) a record of the name of each branch that commenced operation in the previous 12 months;
- (c) a record of the name of each branch that ceased operation in the previous 12 months;

- (d) a record of the address of:
 - (i) the office of the organisation; and
 - (ii) the office of each branch of the organisation;
- (e) a record of each election that must, under the rules of the organisation, be held during each year commencing 1 January:
 - (i) for an office in the organisation; and
 - (ii) for an office in a branch of the organisation;
- (f) a record of the number of members on 31 December in the previous year;
- (g) if the organisation has entered into an agreement mentioned in subsection 151(1) of the Act a record of the number of members of the organisation who were, on 31 December in the previous year, ineligible State members, in relation to the organisation, within the meaning of section 150 of the Act.

Reguation 151 of the RO Regs provides that:

For subsection 233(2) of the Act, for the lodgment of notification of any change to the records, the period of 35 days, beginning on the day after the day when the change is made, is prescribed.

Section 5 of the RO Act provides that:

The standards set out in this Act:

- (a) ensure that employer and employee organisations registered under this Act are representative of and accountable to their members, and are able to operate effectively; and
- (b) encourage members to participate in the affairs of the organisations to which they belong; and
- (c) encourage the efficient management of organisations and high standards of accountability of organisations to their members; and
- (d) provide for the democratic functioning and control of organisations; and
- (e) facilitate the registration of a diverse range of employer and employee organisations.

Brief chronological history of the legislative provision

- 1913 The history of the provision for registered organisations to notify changes to relevant statutory body can be traced back to 1913. The *Conciliation and Arbitration Regulations 1913*, contained the 'Returns of Officers' provision at regulation 19, which required updates of lists of office holders to be provided within 14 days of any change.
- 1928 The Conciliation and Arbitration Regulations 1928 contained requirements relating to records at regulation 20 and this requirement bears similarity to the obligation set out in s 233(2) of the current RO Act. From 1928, the statutory requirement in accordance with regulation 23 was that changes to the records of registered organisations were to be filed with the relevant regulator within 14 days.
- 1989 In 1989, the obligation on a registered organisation to notify the relevant regulator of changes to office holders was found in regulation 131, and notifications of changes were required to be lodged within 35 days. The requirement transitioned into the *Industrial Relations Act 1988* by virtue of section 268(4) taking effect in March 1989.
- 1988 The Industrial Relations Act 1988 was replaced by the Workplace Relations Act 1996.
- 2002 The Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002 placed the reporting obligations of registered organisations into a separate schedule. This amendment introduced Schedule 1B to the Workplace Relations Act 1996, which was the original RAO (Registration and Accountability of Organisations) Schedule. The RAO schedule included section 233 which is very similar to the provision in s.233(2) of the current RO Act.
- 2009 The RAO schedule later became the Fair Work (Registered Organisations) Act 2009.



3 March 2017

Mr Neill Murray Chief Operating Officer Clubs Victoria Inc. Email: neill@ccv.net.au

Dear Mr Murray,

Annual Return of Information for 2017 [AR2017/12]

I acknowledge receipt on 25 January 2017 of Declaration of Ms Barbara Kelly providing information in accordance with subsection 233(1) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

The documents lodged cover the required information for the 2017 Annual Return of Information of Clubs Victoria Inc..

The documents have been filed and can be viewed on the Fair Work Commission website through the List of Registered Organisations - http://www.fwc.gov.au/registered-organisations/find-registered-organisations.

Notifications of Change

Any changes to these records must be notified to the Commission within 35 days of the change. A template Notification of Change Declaration is available on the <u>fact-sheets</u> page of our website. Clubs Victoria Inc. is encouraged to use this template if any changes occur.

Yours sincerely

Margaret Williams

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Regulatory Compliance Branch

Telephone: (03) 8656 4695

Email: orgs@fwc.gov.au

Internet: www.fwc.gov.au

CLUBS VICTORIA INC.

Unit 5, 19-35 Gertrude St Fitzroy Vic 3065

24th January 2017

Fair Work Commission GPO Box 1994 Melbourne Vic 3001

ANNUAL RETURN OF INFORMATION (organisation with no branches) in accordance with Regulation 147 Fair Work (Registered Organisations) Regulations 2009 and Sections 230 and 233 Fair Work (Registered Organisations) Act 2009

- I, Barbara Kelly, being the President of Clubs Victoria Incorporated, declare the following:
- 1. I am authorised to make this declaration.
- 2. The register of members has, during the immediately preceding calendar year, been kept and maintained as required by s.230(1)(a) and s.230(2) of the Fair Work (Registered Organisations) Act 2009 (the Act).
- 3. The following is a correct statement of 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 Act:
 - The address of the organisation is Unit 5, 19-35 Gertrude St, Fitzroy Vic 3065.¹
 - The organisation has no branches and no branches have ceased or commenced in the previous 12 months.²

¹ s.230(1)(d); reg.147(d)

² s.230(1)(d); reg.147(a), (b), (c) & (d)

- On 31 December in the previous year the number of members was 186.³
- A list of offices and the names, postal addresses and occupations of persons holding those offices as at the date of this declaration is attached at Annexure A and forms part of this declaration.
- Under the rules of the organisation, the following elections must be held between 1 January and 31 December of THIS YEAR:⁴

Metropolitan Councillor (4)

Country Councillor Area 1 (1)

- The organisation:
 - Has not entered into an agreement under s.151(1) of the Act with a state union.

Signed:

Barbara Kelly President

Dated:

³ s.230(1)(d); reg.147(f)

⁴ s.230(1)(d); reg.147(e)



Councillor	Address	Elected Position
Mark Dalmau	Celtic Club Inc	Councillor – Melbourne
	316 – 320 Queen St	CBD
	Melbourne Vic 3000	Metropolitan Vice
		President
Barbara Kelly	Chirnside Park CC	Councillor – Metropolitan
	68 Kingswood Drive	
	Chirnside Park Vic	President
Philip Dentith	Moonee Ponds Club Inc	Councillor - Metropolitan
	622 Mt Alexander Rd	,
	Moonee Ponds Vic 3039	
Ross Dunlop	Dandenong Club	Councillor - Metropolitan
	Cnr Stud and Heatherton Rds	
	Dandenong Vic	
Leon Ross	Mulgrave Country Club	Councillor - Metropolitan
	Cnr Jells and Wellington Rds	000000 VIII. VIIII
	Wheelers Hill Vic 3150	
Vacant		Councillor - Metropolitan
Vacant		Councillor – Country Area
		1
Anne Canterbury	Maryborough Highland	Councillor – Country Area
	Society	2
	PO Box 78	
	Maryborough Vic 3465	Treasurer
Michael Sweeney	Kyabram Club	Councillor – Country Area
	82 Allan St	3
	Kyabram Vic 3620	Country Vice President
Peter Wilson	Bairnsdale Golf Bowls Club Inc	Councillor – Country Area
	PO Box 485	4
	Bairnsdale Vic 3875	
Rod Bye	Wonthaggi Workmen's Club	Councillor – Country Area
	75 Graham St	5
	Wonthaggi Vic 3995	500
Stephen Cheater	City Bowls Club Inc	Councillor – Country Area
10	PO Box 207	6