



FAIR WORK
COMMISSION

5 June 2014

Mr John Setka
Victoria Branch
Construction, Forestry, Mining and Energy Union
500 Swanston Street
CARLTON VIC 3053

Dear Mr Setka

Re: Lodgement of Financial Accounts and Statements – Construction, Forestry, mining and Energy Union, Victoria Branch - for year ending 31 December 2013 (FR2013/432)

I refer to the application for an exemption from Part 3 of Chapter 8 of the *Fair Work (Registered Organisations) Act 2009* lodged with the Fair Work Commission on 2 June 2013.

The Delegate has granted a certificate. The certificate is attached.

Yours sincerely

Stephen Kellett
Senior Adviser, Regulatory Compliance Branch

cc. Mr Barry Disken, Financial Manager



CERTIFICATE

Fair Work (Registered Organisations) Act 2009

s.271—Certificate of exemption from requirements of Chapter 8, Part 3

Construction, Forestry, Mining and Energy Union
(FR2013/432)

MR ENRIGHT

MELBOURNE, 5 JUNE 2014

Certificate of exemption from the requirements of Chapter 8, Part 3 of the Fair Work (Registered Organisations) Act 2009

[1] On 2 June 2014 an application was made under s.271(1) of the *Fair Work (Registered Organisations) Act 2009* (the Act) by the Victoria Branch of the Construction, Forestry, Mining and Energy Union for a certificate of exemption in respect of the financial year ended 31 December 2013.

[2] The application was lodged two months after the 90 day period ordinarily prescribed by sub-section 271(3) of the Act. The Branch sought an extension of time under sub-section 271(3) of the Act to allow a later period for lodgement. I grant the extension and allow a later period for lodgement up until the date of actual lodgement.

[3] I am satisfied that the said Branch is a reporting unit that did not have any financial affairs in respect of the financial year ended 31 December 2013.



DELEGATE OF THE GENERAL MANAGER

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From: KELLETT, Stephen
To: ["Barry Disken"](#)
Subject: s271 Certificate of exemption - CFMEU, Victoria Branch - y/e 31 Dec 2013 - certificate granted
Date: Thursday, 5 June 2014 4:52:00 PM
Attachments: [CFMEU VICU FR2013 432 s271 Certificate.pdf](#)
[CFMEU VICU FR2013 432 \(final\).pdf](#)

Dear Barry,

Please see attached a copy of the Delegate's certificate and my letter and would ask that you forward this to Mr John Setka, who made the application.

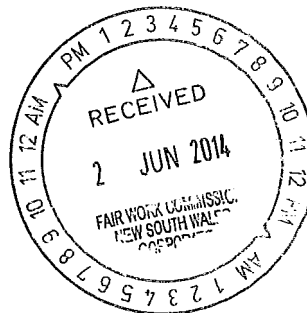
Yours sincerely

STEPHEN KELLETT
Regulatory Compliance Branch
FAIR WORK COMMISSION

80 William Street
EAST SYDNEY NSW 2011

(ph) (02) 6723 7237
(email) stephen.kellett@fwc.gov.au

The General Manager
The Fair Work Commission
80 William Street
East Sydney, VIC 2011



Dear Sir,

Re: *Fair Work (Registered Organisations) Act 2009* - Application for s.271 certificate

I am a member of the Branch Executive of the Victoria Branch of the CFMEU, I make this application on behalf of the Branch, pursuant to a direction issued by the National Executive of the CFMEU and in accordance with Rule 28 of the CFMEU Rules.

Pursuant to s.271 of the *Fair Work (Registered Organisations) Act 2009* (the Act), I hereby apply for a certificate of exemption for the Branch in respect of the financial year.

In support of this application I submit as follows:

1. The CFMEU consists of a number of Divisions.
2. There exist a number of Divisional Branches, (or in the case of the Mining and Energy Division or Forestry, Furnishing, Building Products and Manufacturing Division, Divisional Districts or District Branches) within these Divisions. Such Divisional Branches, Districts or District Branches function within a designated geographical area, in most cases being the State or Territory in which they are established.
3. The CFMEU and each Division and Divisional Branch, District or District Branch thereof submit annual financial returns in accordance with Chapter 8 of the Act.
4. CFMEU State Branches, including the Branch, consist of the members and officers of each Divisional Branch, District or District Branch in each State or Territory.
5. The Branch has not had an account with a bank or any other financial institution nor has it had custody of any real property or monies during the financial year.
6. The Branch had no reason to keep accounting records and did not have any financial affairs during the financial year.
7. The Branch has not traded or carried out financial transactions of any kind and has not expended economic resources or incurred any financial obligations to conduct its activities during the financial year.
8. The various Divisional Branches, Districts, or District Branches within the State of Victoria expend their own economic resources and incur financial obligations so that the Branch may conduct its activities.
9. No person or body corporate or trust expends its own economic resources or incurs financial obligations so that the Branch may conduct its activities.
10. Notwithstanding the above, the Branch has functioned in accordance with the rules of the CFMEU including the rules relating to Branches.

Extension of time for Application

I note that an application pursuant to s.271 of the Act is required to be filed within 90 days after the end of the financial year or within such longer period as the General Manager allows after the end of the financial year. In relation this application relevant financial year ended on 31 December 2013, and consequently the period of 90 days after that date expired on 31 March 2014.

The Branch asks that you allow a longer period for the lodgement of this application.

In relation to this request we note that the period of delay in lodging these statements is relatively short.

We advise that the delay in lodging this Application was caused by the need to ensure proper authorisation of the Application having regard to the vacancy of the positions of Branch Officers. We note that in the past a Branch Officer has made an appropriate application on behalf of the Branch. However, as those positions are currently vacant and the subject of the election process authorised by the Commission in E2014/92 there was no Officer within the Branch able to make application at the relevant time. Having regard to these vacancies this Application is made at the direction of the National Executive, in accordance with Rule 28 of the Unions Rules. Some time was required to obtain the authorisation of the National Executive, contributing to the delay in lodging this application.

In addition, we say that having regard to the lack of financial activity in the Branch as noted at points 5-9 above, no prejudice would be caused to any member of the Union by the grant of an extension of time by the period necessary.

We trust that this explanation will satisfy you and that the time for lodgement of these statements is able to be extended.

Yours faithfully,



John Setka
Branch Executive Member
CFMEU Victoria Branch



26 February 2014

Mr Greg Hardy
Secretary
Construction, Forestry, Mining and Energy Union-Victoria Branch
Sent by fax: (03) 9341 3427

Dear Mr Hardy,

**Re: Lodgement of Financial Report - [FR2013/432]
Fair Work (Registered Organisations) Act 2009 (the RO Act)**

The financial year of the Victoria Branch of the Construction, Forestry, Mining and Energy Union (the reporting unit) ended on 31 December 2013.

This is a courtesy letter to remind you of the obligation to prepare and lodge the financial report for the reporting unit by the due date, namely 15 July 2014 (being the expiry date of 6 months and 14 days from the end of the financial year), under s.268 of the RO Act.

The RO Act sets out a particular chronological order in which financial documents and statements must be prepared, audited, provided to members and presented to a meeting. For your assistance, the attached *Timeline/Planner* summarises these requirements.

Fact sheets and guidance notes in relation to financial reporting under the RO Act are provided on the Fair Work Commission website. Additionally, the General Manager's updated Reporting Guidelines, that apply to all financial reports prepared on or after 30 June 2013, are also available on the website together with slides relating to our financial Reporting Guidelines Webinar.

The Fair Work Commission has also developed a model set of financial statements for the 2012-2013 financial year. There is no requirement to use this model but it may be a useful resource to ensure compliance with the RO Act, the Reporting Guidelines and the Australian Accounting Standards. All of the above information can be accessed through our website under [Compliance & litigation](#).

The financial report and any statement of loans, grants or donations made during the financial year [statement must be lodged within 90 days of end of financial year] can be emailed to orgs@fwc.gov.au. A sample statement of loans, grants or donations is available at [sample documents no.5](#)

It should be noted that s.268 is a civil penalty provision. Failure to lodge a financial report may result in legal proceedings being issued with the possibility of a pecuniary penalty (up to \$51,000 for a body corporate and \$10,200 for an individual per contravention) being imposed upon an officer whose conduct led to the contravention and/or your organisation.

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

Yours sincerely,

Robert Pfeiffer
Senior Adviser
Regulatory Compliance Branch

TIMELINE/ PLANNER

Financial reporting period ending:	/ /	
Prepare financial statements and Operating Report.		
<p>(a) A Committee of Management Meeting must consider the financial statements, and if satisfied, pass a resolution declaring the various matters required to be included in the Committee of Management Statement.</p> <p>(b) A # designated officer must sign the Statement which must then be forwarded to the auditor for consideration as part of the General Purpose Financial Report (GPFR).</p>	/ /	As soon as practicable after end of financial year
Auditor's Report prepared and signed and given to the Reporting Unit - s257	/ /	<p>Within a reasonable time of having received the GPFR</p> <p>(NB: Auditor's report must be dated on or after date of Committee of Management Statement</p>
<p>Provide full report free of charge to members – s265</p> <p>The full report includes:</p> <ul style="list-style-type: none"> the General Purpose Financial Report (which includes the Committee of Management Statement); the Auditor's Report; and the Operating Report. 	/ /	<p>(a) if the report is to be presented to a General Meeting (which must be held within 6 months after the end of the financial year), the report must be provided to members 21 days before the General Meeting,</p> <p>or</p> <p>(b) in any other case including where the report is presented to a Committee of Management meeting*, the report must be provided to members within 5 months of end of financial year.</p>
Present full report to:		
(a) General Meeting of Members - s266 (1),(2); OR	/ /	Within 6 months of end of financial year
(b) where the rules of organisation or branch allow* - a Committee of Management meeting - s266 (3)	/ /	Within 6 months of end of financial year
Lodge full report with the Fair Work Commission, together with the #Designated Officer's certificate++ – s268	/ /	Within 14 days of meeting

* the full report may only be presented to a committee of management meeting if the rules of the reporting unit provide that a percentage of members (not exceeding 5%) are able to call a general meeting to consider the full report.

The Committee of Management Statement and the Designated Officer's certificate must be signed by the Secretary or another officer who is an elected official and who is authorised under the rules (or by resolution of the organisation) to sign the statement or certificate – s243.

++ The Designated Officer's certificate must state that the documents lodged are copies of the documents provided to members and presented to a meeting in accordance with s266 – dates of such events must be included in the certificate. The certificate cannot be signed by a non-elected official.