

1 October 2020

Post-election report

Flight Attendants' Association of Australia (FAAA) E2019-235

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Election(s) Covered in this Report

Organisation: Flight Attendants' Association of Australia (FAAA)

Election Decision Number(s): E2019/235

Rules

Rules used for the election: [231V: Incorporates alterations of 18 June 2020 [R2019/163]
(replaces 11 September 2017 version (R2016/295 2016)

Rules difficult to apply/interpret: None

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website:

https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections

Roll of Voters

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

Irregularities: None

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

Other irregularities identified, and action taken: None

Other Matters

Returning Officer actions required (Section 193): Yes

Details:

Rules are silent on the withdrawal of nominations. Returning officer did not allow the withdrawal of nominations after the closing date for receipt of nominations.

Signed



Noopur Madan
Returning Officer
Australian Electoral Commission
E: industrial.elections@aec.gov.au
P: 02 9375 6321

1 October 2020

Attachments

1. FAAA Declaration of Results for Uncontested Offices – E2019-235

Flight Attendants' Association of Australia

DECLARATION OF RESULTS - E2019/235 Uncontested Offices

Scheduled Election

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 are:

Federal Secretary (1)

Candidates

O'TOOLE Teri

Federal Assistant Secretary (International) (1)

Candidates

NESCI Lou

President (International) (1)

Candidates

HORSFALL David

Vice President (International) (1)

Candidates

DI BRAZZA Lisa

Deputy Vice President (International) (1)

Candidates

BLAKE Ian

Executive Member (International) (1)

Candidates

MACKAY Laura

Federal Assistant Secretary (Domestic) (1)

Candidates

UREN Gareth

Vice President (Domestic) (1)

Candidates

McMANUS Angela

Deputy Vice President (Domestic) (1)

Candidates

LOCKYER Toni

Domestic - Qantas Domestic Pty Limited

Councillor (1)

Candidates

DICKENS Megan

International - Qantas Airways Limited flying international routes

Councillors (4)

Candidates

MOODY, Julie

PHILIPPE Kylie

WALL Greg

WHITE Gavin

Domestic - Qantas Airways Limited flying domestic routes

Councillors (2)

Candidates

LINTON Gabrielle

WHITFORD Susan

Domestic - Virgin Australian Airlines flying short haul or domestic routes, VARA and Tiger Airways

Councillors (2)

Candidates

PROCTER Adam

SHARMA Nesh

Domestic - MAM and Altara

Councillor (1)

Candidates

No Nominations Received

Domestic - REX, Maroomba Airlines, Alliance, Adagold and employers not elsewhere listed who employ members flying domestic routes

Councillor (1)

Candidates

No Nominations Received

Domestic - Jetstar, Team Jetstar, QantasLink, Network Aviation, Eastern Airlines and Sunstate, except for Jetstar employees flying on long haul international routes

Councillor (1)

Candidates

No Nominations Received

International - Qantas Cabin Crew Australia Pty Limited flying international routes

Councillors (2)

Candidates

DE WILT Sarah
PARKER Benjamin

International - Virgin Australia and any members of other employers not otherwise listed flying long haul international routes

Councillors (2)

Candidates

JONES Troy
SMITH Clair

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



Noopur Madan
Returning Officer
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16/09/2020





DECISION

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

Flight Attendants' Association of Australia (E2019/235)

MR COYLE

MELBOURNE, 8 JULY 2020

Arrangement for conduct of election.

[1] On 19 June 2020 the Flight Attendants' Association of Australia lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices:

Executive

Federal Secretary	(1)
Federal Assistant Secretary (International)	(1)
Federal Assistant Secretary (Domestic)	(1)
President (International)	(1)
Vice President (International)	(1)
Deputy Vice President (International)	(1)
Vice President (Domestic)	(1)
Deputy Vice President (Domestic)	(1)
Executive Member (International)	(1)

Councillors by and from the following electorates:

Domestic

Qantas Airways Limited flying domestic routes	(2)
Virgin Australian Airlines flying short haul or domestic routes, VARA and Tiger Airways	(2)

Qantas Domestic Pty Limited	(1)
MAM, Altera	(1)
Jetstar, Team Jetstar, QantasLink, Network Aviation, Eastern Airlines and Sunstate, except for Jetstar employees flying on long haul international routes	(1)
REX, Maroomba Airlines, Alliance, Adagold and employers not elsewhere listed who employ members flying domestic routes	(1)

International

Qantas Airways Limited flying international routes	(4)
Qantas Cabin Crew Australia Pty Limited flying international routes	(2)
Virgin Australia and any members of other employers not otherwise listed flying long haul international routes	(2)

[2] The organisation had previously lodged prescribed information on 22 November 2019 in anticipation of its scheduled 2020 quadrennial elections. That lodgement of prescribed information was before the prescribed day required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*, namely two months before nominations were due to open. At that time, the organisation advised the Commission of its proposed rule changes and indicated that if certified they would have a significant impact on the offices to be elected at the upcoming election.

[3] On 19 December 2019, the organisation lodged those rule changes with the Fair Work Commission (FWC). The organisation kept both the FWC and the Commission informed about these matters and the potential difficulties that would arise if elections commenced under the rules as they existed at the end of 2019, only to be replaced by new rules during that election process.

[4] The organisation understood that such circumstances could precipitate a situation similar to that in *Sara, in the matter of an inquiry into the election for offices in the Australian Salaried Medical Officers Federation* [2018] FCA 844 (ASMOF) – in which an officer of that organisation had to seek orders from the Federal Court in circumstances where an election was commenced under the ‘old’ rules which were then entirely replaced by ‘new’ rules in order to prevent two concurrent elections, including for a number of abolished or replaced offices.

[5] On 20 December 2019, after consultation with the Commission, the organisation withdrew the prescribed information that it had lodged. In that letter, the organisation also indicated that the rule changes may lead to the organisation lodging prescribed information less than two months before nominations were due to open, i.e. after the prescribed day required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*, and foreshadowed that it would be requesting that the Commission allow the later lodgement date.

[6] On 18 June 2020, the FWC certified the organisation's rule changes.¹ Prescribed information, requesting an election under the new structure was lodged the very next day. As indicated in the FWC's decision, these rule changes entirely reframed the organisation and its governance, including the offices of the organisation. This is the first election to be conducted under the new rules taking operation from 30 June 2020, which provide a unitary structure for the organisation, rather than two separate and distinct Divisions, as previously existed until the rule change was certified.

[7] I am satisfied that the reason for the late lodgement of prescribed information is a sufficient ground to justify agreeing to allow a later date for the lodgement. The normal and reasonable expectation is that registered organisations will take steps to ensure they comply with the time-frame requirements set out not only in the *Fair Work (Registered Organisations) Act 2009* (the Act) but also in instruments or references pertaining to their own governance (such as their own rules). In this case the late lodgement of prescribed information has had the result that some officers elected to the former International Division in E2016/51 and the former National Division in E2015/305, who nominally would have concluded their terms by 30 June 2020, continuing in office after that date.

[8] In the circumstances of the substantial rule alterations effected by the organisation it was reasonable for the organisation, in consultation with the FWC and Commission, to defer lodging prescribed information pending the outcome of rule alterations. Had those rule alterations been effected during the conduct of elections conducted under the pre-unification rules, it is likely that a situation similar to that in ASMOF would have arisen. Given that the organisation consulted with the Commission at all stages of the process, and the relatively short period of additional time during which officers elected in E2016/51 and E2015/305 will continue to hold over office, and the consequential effect of the rule changes which unifies offices from the two Divisions into one structure, I consider that the circumstances are such that it is appropriate on this occasion to allow, under section 189(2) of the Act, a later day for lodgement.

[9] 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 COMMISSIONER

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PR351679

¹ *Flight Attendants Association of Australia* [2020] FWCD 2968

PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 of the *Fair Work (Registered Organisations) Act 2009* and Regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009*, with a request under Section 187 of the *Fair Work (Registered Organisations) Act 2009*

We, Teri O'Toole, being the Secretary International Division and Gareth Uren, Secretary National Division of the Flight Attendants' Association of Australia make the following statement:

1. We are authorised to sign this statement containing prescribed information for the International Division of the Flight Attendants' Association of Australia. In light of the unification of the divisions of the Association, both divisional secretaries are providing statements as the two officials responsible for the parts of the Association which will make up the unified structure.
2. The following information is lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. A decision of the Fair Work Commission approving the rule alterations which provide for this election is attached. The proposed alterations were lodged on 19 December 2019 and approved by the Fair Work Commission on 18 June 2020. There are no other rule alterations pending.
5. This statement **IS NOT** lodged at least 2 months before nominations open for the election(s) in Annexure A. The reason it is lodged after the prescribed time is:
 - a. A prescribed information notice was previously provided to the Registered Organisations Commission for the elections to be held under the old rules and an accompanying request for an extension was also made for the elections to be held under the new rules at the same time 21 November 2019.
 - b. The FAAA engaged closely with the Registered Organisation's Commission on how to best comply with the requirements.
 - c. Following advice from the Registered Organisations Commission, once the rule alterations had been lodged with the Fair Work Commission, the FAAA withdrew the earlier submitted prescribed information notice and request for extension 21 November 2019 and submitted a fresh request for an extension of time to lodge the prescribed information on 20 December 2019.
 - d. The FAAA engagement with the ROC ensured that elections would not be conducted under the old rules, which would have required a Federal Court order to stop the AEC from conducting elections which would have been made redundant by the approval of the rule alterations by the FWC. This avoided unnecessary resources being deployed in Federal Court proceedings by the

FAAA and public agencies and also avoided the possibility of two elections being held at once-using the old and new rules.

- e. Following the Fair Work Commission approving the rule alterations, the FAAA is submitting prescribed information, based on the operation of Part E of the rules (certified by the FWC on 18 June 2020) which has now come into effect. This made providing the prescribed information only possible following approval by the FWC when the operation of Part E, the transitional rules of the FAAA, came into effect.
- f. The exact date of the elections and in particular nomination opening dates were unknown until the FWC approved the rule alterations because the specific elections dates are to be determined by the AEC Returning Officer following the approval of the rules by the FWC.
- g. An extension of time request was previously lodged for this election on 21 November 2019 and on 20 December 2019 were done as a precaution. However, the obligation to provide the prescribed information for the current election (under the new unified structure) could not crystallise until Part E began to operate, following approval by the FWC.
- h. The coronavirus pandemic has changed the ordinary operations of both the AEC and the FAAA. There has been an influx of matters coming into the FAAA arising out of the mass stand down of a majority of the FAAA's members across both major airline groups. As you would be aware, the AEC has suspended its normal conduct or industrial elections as of March.
- i. The FAAA understands, following engagement with the ROC and AEC, that due to the coronavirus pandemic, the AEC's decision to defer most industrial elections and the timing of the FAAA's rule alterations being certified, that the provisions of s.193(1) may well be used to deal with issues such as having an election timetable different to that specified in the FAAA rules.
- j. Following advice from the ROC and out of abundance of caution, we also request, if it is necessary, an extension of time to provide the Prescribed Information by a later date than required. We understand that the Commissioner may grant the extension after the due date where it is appropriate. The present circumstances as outlined above present circumstances where, we submit, it would be appropriate to grant such a request where it is necessary to overcome a technical issue, should it arise.

NOTE: A failure to lodge Prescribed Information on time can lead to civil penalties under the RO Act. Extensions of time should be requested at least two months before nominations open.

Signed 

Dated: 19 June 2020


19 June 2020

NOTE: This statement should be lodged with the Registered Organisations Commission at least 2 months prior to nominations opening. It can be submitted to regorgs@roc.gov.au.

Annexure A

- Elections that are required [insert as many pages as 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
For the election of officers					
Federal	Federal Secretary	1	Direct Voting System	Scheduled	<i>All members of the Association, Part C, rule 42 and sub-rule 6(3)(a)</i>
Federal	Assistant Federal Secretary (International)	1	Direct Voting System	Scheduled	<i>International Division members of the Association, Part C, rule 42, sub-rule 6(3)(a)(i) and (ii) and sub-rule 34(2)(b).</i>
Federal	Assistant Federal Secretary (Domestic)	1	Direct Voting System	Scheduled	<i>Domestic Division members of the Association Part C, rule 42, sub-rule 6(3)(a)(i) and (ii) and sub-rule 34(2)(a).</i>
Federal	President (International)	1	Direct Voting System	Scheduled	<i>International Division members of the Association, Part C, rule 42, sub-rule 6(3)(a)(i) and (ii) and sub-rule 34(2)(b).</i>
Federal	Vice President (International)	1	Direct Voting System	Scheduled	<i>International Division members of the Association, Part C, rule 42, sub-rule 6(3)(a)(i) and (ii) and sub-rule 34(2)(b).</i>
Federal	Deputy Vice President (International)	1	Direct Voting System	Scheduled	<i>International Division members of the Association, Part C, rule 42, sub-rule 6(3)(a)(i) and (ii) and sub-rule 34(2)(b).</i>
Federal	Vice President (Domestic)	1	Direct Voting System	Scheduled	<i>Domestic Division members of the Association Part C, rule 42, sub-rule 6(3)(a)(i) and (ii) and sub-rule 34(2)(a).</i>

Federal	Deputy Vice President (Domestic)	1	Direct Voting System	Scheduled	<i>Domestic Division members of the Association Part C, rule 42, sub-rule 6(3)(a)(i) and (ii) and sub-rule 34(2)(a).</i>
Federal	Executive Member (International)	1	Direct Voting System	Scheduled	<i>International Division members of the Association, Part C, rule 42, sub-rule 6(3)(a)(i) and (ii) and sub-rule 34(2)(b).</i>
Federal	Councillor (Qantas Airways Limited Domestic)	2	Direct Voting System	Scheduled	<i>Members employed by Qantas Airways Limited flying domestic routes, rule 42 and sub-rule 6(3)(b)(i)</i>
Federal	Councillor (Virgin Domestic, VARA, Tiger)	2	Direct Voting System	Scheduled	<i>Members employed by Virgin Australia Airlines flying Domestic, VARA and Tiger Airways, rule 42 and sub-rule 6(3)(b)(ii)</i>
Federal	Councillor (Qantas Domestic)	1	Direct Voting System	Scheduled	<i>Members employed by Qantas Domestic Pty Ltd, rule 42 and sub-rule 6(3)(b)(iii)</i>
Federal	Councillor (MAM, Altara)	1	Direct Voting System	Scheduled	<i>Members employed by MAM and Altara, rule 42 and sub-rule 6(3)(b)(iv)</i>
Federal	Councillor (Jetstar Group, Qantas Link)	1	Direct Voting System	Scheduled	<i>Members employed by Jetstar, Team Jetstar, QantasLink, Network Aviation, Eastern Airlines, and Sunstate, except for Jetstar employees flying on long haul international routes, rule 42 and sub-rule 6(3)(b)(v)</i>
Federal	Councillor (REX, Maroomba, Alliance, Adagold and others)	1	Direct Voting System	Scheduled	<i>Members employed employed by REX, Maroomba Airlines, Alliance, Adagold and employers not otherwise listed in sub-rule 6(3)(b)(i), (ii), (iii), (iv) or (v) who employ members flying domestic routes. Rule 42 and sub-rule 6(3)(b)(vi).</i>
Federal	Councillor (Qantas Airways Limited International)	4	Direct Voting System	Scheduled	<i>Members employed by Qantas Airways Limited flying international routes. Rule 42 and sub-rule 6(3)(c)(i).</i>

Federal	Councillor (QF Cabin Crew Australia Pty Ltd)	2	Direct Voting System	Scheduled	<i>Members employed by Qantas Cabin Crew Australia Pty Ltd flying international routes. Rule 42 and sub-rule 6(3)(c)(ii).</i>
Federal	Councillor (Virgin Australia and other airlines)	2	Direct Voting System	Scheduled	<i>Members employed by Virgin Australia flying long haul international routes and any other employers of members flying long-haul international routes not listed in sub-rule 6(3)(c)(i) or (ii). Rule 42 and sub-rule 6(3)(c)(iii).</i>
For the election of non-office positions, requested under s 187 of the RO Act					
N/A	N/A	N/A	Select relevant voting system	Select reason for election	N/A

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	To be determined by the returning officer, Part E rule 17.	N/A
Nominations CLOSE	To be determined by the returning officer, Part E rule 17.	N/A
Roll of Voters cut off date	To be determined by the returning officer, Part E rule 17.	N/A

NOTES: For insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as 'To be determined by the returning officer'. This also applies where rules are silent as to the nominated dates. If the nomination dates are 'To be Determined by the Returning Officer', but your organisation has a *preference*, please state 'To be Determined by Returning Officer' and clearly indicate that your nominated date is a preference.