

18 February 2016


Chris Enright  
Director  
Regulatory Compliance Branch  
Fair Work Commission  
GPO Box 1994  
**MELBOURNE VIC 3001**

Dear Mr Enright

**Health Services Union Queensland Branch: non-lodgement of financial reports for years ending 30 June 2000 to 30 June 2010**

I refer to your correspondence dated 9 February 2016 regarding the above matter and I acknowledge receipt of that correspondence.

Your sincerely



Chris Brown  
**National Secretary**





9 February 2016

Mr Chris Brown  
National Secretary  
Health Services Union  
Suite 1  
Level 3, 377 Sussex Street  
SYDNEY NSW 2000

via email: [chrisb@hsu.net.au](mailto:chrisb@hsu.net.au)  
[jonathan.milman@hsu.asn.au](mailto:jonathan.milman@hsu.asn.au)

Dear Mr Brown

**Health Services Union Queensland Branch: non-lodgement of financial reports for years ending 30 June 2000 to 30 June 2010**

I refer to previous correspondence and discussion with you regarding outstanding financial reports for the Queensland Branch of the Health Service Union (**HSU**) for the financial years ending 30 June 2000 to 2010.

As you are aware, the *Fair Work (Registered Organisations) Act 2009 (RO Act)* requires the Queensland Branch of the HSU to lodge audited financial reports with the Fair Work Commission (**the Commission**) within six months and 14 days of the end of its financial year (that is, no later than 15 January). It is a requirement of the RO Act that:

- a General Purpose Financial Report (**GPFR**) and an operating report be prepared as soon as practicable after the end of the financial year (ss.253, 254);
- that the full report (consisting of the GPFR, operating report and auditor's report) be presented to a general meeting of members, or to a meeting of the branch Committee of Management, within six months after the end of the financial year (s.266); and
- a copy of the full report must be provided to members at least 21 days before the general meeting or if presented to a branch Committee of Management meeting within five months after the end of the financial year (s.265(5)).

You have advised that, due to the failure by the then Queensland Branch Committee of Management to keep proper or adequate financial records, financial reports for the years ending 30 June 2000 to 30 June 2010 are not able to be prepared, in breach of the above requirements of the RO Act.

It also appears that the Health Services Union failed to lodge the required information for the Queensland Branch in the annual returns for the years 2006 to 2013 as required by s.233.

I consider the prolonged non-compliance by the Queensland Branch to be a serious matter. The standards set out in the RO Act are directed to ensuring that registered organisations are: accountable to their members; efficiently managed and operate effectively; and enable participation by members in the affairs of the organisation. The consequence of the

contraventions is that the Branch has not been accountable to its members and members have been deprived of the opportunity to be informed of the financial position of the Branch and to otherwise participate in the affairs of the organisation, contrary to the objects of the RO Act.

Officers of an organisation are also held to high standards and must comply with the general duties in relation to the financial management of the organisation. The failure by the then Branch Secretary to comply with these requirements and the lack of oversight by then National Executive, may also amount to a breaches of the general duties of officers as set out in Part 2 of Chapter 9 of the RO Act.

However, I also acknowledge the extensive and voluntary action taken by the current National Executive and new Branch Committee of Management to rectify these matters. In particular, that the National Executive has taken steps to reconstitute the Branch and has put in place internal governance mechanisms to ensure proper oversight of the Queensland Branch. As a result, the Branch now has a new Committee of Management, and has lodged the outstanding financial reports for the financial years ending 30 June 2011 to 30 June 2013 and complied with its reporting requirements for the financial year ending 30 June 2014 and 30 June 2015.

It is also a relevant consideration that: both the former Queensland Branch office holders and National Secretaries are no longer officers of the union; that the number of members of the Branch is small; and the current National Executive has been fully cooperative.

Having regard to these matters, it is not considered it would be in the public interest to commence a formal investigation into these matters and I advise that the Commission will close off the financial reports for the Queensland Branch of the HSU for the years 30 June 2000 to 30 June 2010 and annual returns for the years 2006 to 2013.

However, the Commission will continue to closely monitor the Queensland Branch and will take prompt action in response to any further contraventions. You are on notice that any future non-compliance by the Queensland Branch will be treated very seriously, with the earlier non-compliance taken into account in deciding what action to take.

I also note that in a meeting on 16 September 2015, you raised the possibility of an amendment to the HSU Rules to abolish the Queensland Branch and have the Tasmanian Branch look after the interests of members in Queensland. Please note that until such change to the HSU Rules is approved, the Queensland Branch must adhere to all requirements under Part 3 of Chapter 8 of the RO Act. I would request that you continue to keep the Commission updated regarding the status of the Queensland Branch.

If you would like to discuss any aspect of the above, please contact me on 8656 4680 or Joanne Fenwick, Financial Reporting Specialist on 8656 4681.

Please acknowledge your receipt of this correspondence by Friday 19 February 2016.

Yours sincerely



Chris Enright  
Director  
Regulatory Compliance Branch

cc. Jonathan Milman, Queensland Branch Secretary



FAIR WORK  
AUSTRALIA

3 February 2011

Mr Clem O'Shannessy  
Branch Secretary  
Health Services Union  
Queensland Branch  
Suite 24  
25 Grafton Street  
CAIRNS QLD 4870

Dear Mr O'Shannessy,

**Lodgement of Financial Documents for year ended 30 June 2010 [FR2010/2724]  
Fair Work (Registered Organisations) Act 2009 (the RO Act)**

The RO Act requires the Queensland Branch of the Health Services Union to lodge audited financial accounts and statements with Fair Work Australia within 6 months and 14 days of the end of its financial year.

This office has no record of lodgement of financial documents for year ended 30 June 2010, which should have been lodged with Fair Work Australia by 15 January 2011. We are concerned that our records also show that we have not received lodgement of any financial reports for a number of previous years, namely for financial years ending 30 June 2005 to 2009.

Our concerns have been raised in previous letters to you and I would be pleased if you could contact me to discuss the issues that seem to be preventing the Branch from lodging its financial reports. I request that you do so by 24 February 2011:

I have pointed out in previous letters that in order to avoid exposure to a civil (pecuniary) penalty, you are required to lodge certain documents such as:

- *A general purpose financial report* (see section 253(2)(a) of the RO Act);
- *A committee of management statement* (see the Financial Reporting Guidelines);
- *An operating report* (see section 254(2));
- *An auditor's report* (see sections 257(5) to 257(11)); and
- *A certificate of the secretary or other authorised officer* (see section 268)).

I note for your information that the general purpose financial report must be prepared in accordance with not only the applicable Australian Accounting Standards but also the Financial Reporting Guidelines. A copy of the Guidelines is available on our website (details of which are provided below).

The RO Act sets out a particular chronological order in which these documents and statements must be prepared, made available to members and presented to a meeting. All of these events must occur within timeframes that are also specified in the RO Act. Detailed information can be found on our website at <http://www.fwa.gov.au>, click *Registered organisations* then *Financial reporting guidelines* for information leading to:

11 Exhibition Street  
Melbourne VIC 3000  
GPO Box 1994  
Melbourne VIC 3001

Telephone: (03) 8661 7777  
Email : [orgs@fwa.gov.au](mailto:orgs@fwa.gov.au)  
Internet : [www.fwa.gov.au](http://www.fwa.gov.au)

- Fact sheets:
  - Sheet 8 – Financial Reporting Process and Time-Lines;
  - Sheet 9 – Diagrammatic Summary of Financial Reporting Process and Time-Lines; and
  - Sheet 10 – Auditors.
- Sample Documents – a sample Designated Officer’s Certificate is available;
- RO Act and RO Regulations;
- Financial Reporting Guidelines – the Guidelines set out requirements that must be met **in addition to** those required by Australian Accounting Standards; and
- Document Checklist and Timeline Planner to assist with meeting timeframes.

I draw your attention to the civil penalty provisions of the RO Act [see section 305(2)(ze)] which allow the Federal Court to impose a pecuniary penalty upon a person or organisation where the requirements of section 268 have not been met. You should also be aware of the provisions of Part 1 of Chapter 9 of the RO Act which set out general duties of officers and employees of organisations and their branches in relation to financial management.

This office encourages you to lodge documents electronically by sending an email with the documents attached to [orgs@fwa.gov.au](mailto:orgs@fwa.gov.au). Alternatively, you can send the documents by fax to (03) 9655 0410.

Yours sincerely,



Robert Pfeiffer  
Tribunal Services and Organisations  
Fair Work Australia

## TIMELINE/ PLANNER

Financial reporting period ending:	/ /	
Prepare financial statements and Operating Report.		
(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. (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).	/ /	As soon as practicable after end of financial year
Auditor's Report prepared and signed and given to the Reporting Unit - s257	/ /	Within a reasonable time of having received the GPFR (NB: Auditor's report <u>must</u> be dated on or after date of Committee of Management Statement
Provide full report free of charge to members – s265  The full report includes: <ul style="list-style-type: none"> <li>• the General Purpose Financial Report (which includes the Committee of Management Statement);</li> <li>• the Auditor's Report; and</li> <li>• the Operating Report.</li> </ul>	/ /	(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, or (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.
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 Fair Work Australia, 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.



FAIR WORK  
AUSTRALIA

23 July 2010

Mr Clem O'Shannessy  
Branch Secretary  
Health Services Union  
Queensland Branch  
[REDACTED]

Dear Mr O'Shannessy,

**Lodgement of Financial Documents for year ended 30 June 2010 [FR2010/2724]  
Fair Work (Registered Organisations) Act 2009 (the RO Act)**

The financial year of the Queensland Branch of the Health Services Union (the "reporting unit") has recently ended. This is a courtesy letter to remind you of the obligation to prepare and process the reporting unit's financial documents. The full financial report must be lodged with Fair Work Australia within a period of 5 months and 14 days or 6 months and 14 days, depending on your rules, of the end of the financial year.

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. The attached *Timeline/Planner* summarises these requirements.

In addition, financial reporting fact sheets and sample documents can be found on our Fair Work Australia website. You will find that the legislative requirements remain largely unchanged to that of the former requirements under Schedule 1 of the Workplace Relations Act 1996. The information can be viewed at [www.fwa.gov.au](http://www.fwa.gov.au) – under *Registered Organisations – Overview – Fact sheets*. This site also contains the Financial reporting guidelines.

This office encourages you to lodge all financial reports electronically (e.g. as pdf files) at [orgs@fwa.gov.au](mailto:orgs@fwa.gov.au). Alternatively, you can forward the documents by fax to (03) 9655 0410.

Please do not hesitate to contact me on (03) 8661 7817 or by email at [robert.pfeiffer@fwa.gov.au](mailto:robert.pfeiffer@fwa.gov.au) if you wish to discuss the requirements outlined in this correspondence.

Yours sincerely,

Robert Pfeiffer  
Tribunal Services and Organisations  
Fair Work Australia

**TIMELINE/ PLANNER**

Financial reporting period ending:	/ /
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Prepare financial statements and Operating Report.
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(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.	/ /
(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).	

*As soon as practicable after end of financial year*

Auditor's Report prepared and signed and given to the Reporting Unit - s257	/ /
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*Within a reasonable time of having received the GPFR  
(NB: Auditor's report must be dated on or after date of Committee of Management Statement*

Provide full report free of charge to members – s265 The full report includes: • the General Purpose Financial Report (which includes the Committee of Management Statement); • the Auditor's Report; and • the Operating Report.	/ /
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*(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,  
  
or  
(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.*

Present full report to:	/ /
(a) General Meeting of Members - s266 (1),(2); OR	/ /
(b) where the rules of organisation or branch allow* - a Committee of Management meeting - s266 (3)	/ /

<i>Within 6 months of end of financial year</i>
<i>Within 6 months of end of financial year</i>

Lodge full report with Fair Work Australia, together with the #Designated Officer's certificate++ – s268	/ /
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<i>Within 14 days of meeting</i>
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\* 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.