



FairWork
Commission

17 February 2016

Mr Glen Seidel
Branch Secretary
Independent Education Union – South Australia Branch

via email: gseidel@ieusa.org.au

Dear Mr Seidel

Section 271 application for exemption from the financial reporting obligations of Part 3 of Chapter 8 of the Fair Work (Registered Organisations) Act 2009 for financial year ended 31 January 2016 (FR2016/51)

I refer to your application pursuant to s271 of the *Fair Work (Registered Organisations) Act 2009* (RO Act), lodged in the Fair Work Commission (FWC) on 7 February 2016, in respect of the South Australia Branch of the Independent Education Union (IEU SA) for the financial year ended 31 January 2016.

I am satisfied that the IEU SA is a reporting unit and that it did not have any financial affairs in the financial year which ended 31 January 2016. The attached certificate reflects this decision.

If you wish to discuss this matter, please contact Ms Joanne Fenwick on 03) 8656 4681 or by email to joanne.fenwick@fwc.gov.au.

Yours sincerely

Chris Enright
Director
Regulatory Compliance Branch

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CERTIFICATE

Fair Work (Registered Organisations) Act 2009

s.271 - Reporting unit's exemption from requirements of Chapter 8, Part 3

Independent Education Union – South Australia Branch
(FR2016/51)

MR CHRIS ENRIGHT

MELBOURNE, 17 FEBRUARY 2016

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

[1] On 7 February 2016 an application was made under s 271 (1) of the *Fair Work (Registered Organisations) Act 2009* (the Act) by the South Australia Branch of the Independent Education Union for a certificate of exemption in respect of the financial year ended 31 January 2016.

[2] On the basis of the material provided in the application, I am satisfied that the applicant is a reporting unit that did not have any financial affairs in respect of the financial year which ended 31 January 2016.



DELEGATE OF THE GENERAL MANAGER

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7 February 2016

Regulatory Compliance Branch

Fair Work Commission

By email: orgs@fwc.gov.au

**Re: Financial Reporting Requirements Independent Education Union
(South Australia) Branch 2016**

I acknowledge the letter dated and emailed 28 August 2015 and I am grateful for the assistance provided concerning its contents. The IEU(SA) Branch of the Independent Education Union of Australia (IEUA) (the reporting unit) has historically relied upon s.269 exemptions from full financial reporting as it had been accepted that the s.269 criteria were met. The letter of 28 August 2015, however, declines to issue a s.269 certificate for 2015 on the grounds that (notwithstanding that returns were lodged) the state Act does not require lodgment of audited returns. I appreciate the consideration granted in closing the matter with no further action required.

The various branches of the IEUA which have associated state registered unions are currently in the process of transferring their financial operations (including the employment of staff) from the state entity to the IEUA branch entity. Some have completed this process but the SA Branch is to transition financial operation from the state Union (Independent Education Union (South Australia) Inc) at midnight December 31st 2016. That is, in less than 11 months' time.

There is no intention to alter the current organisational structure

1. The Branch and the state Union share the same membership
2. The Branch and the state Union share the same executives, including office holders.
3. The Branch and the state Union, however, do conduct separate executive meetings.
4. The existence of the state Union predates the existence of the IEUA (and hence the SA Branch) but both SA bodies have different responsibilities and the conducting of business under one "hat" or the other is neither a contrivance nor a sham.

Up until the start of 2017, the historical financial arrangements between the state Union (IEU(SA) Inc) and the IEUA branch (IEU(SA) Branch) will continue. In summary those arrangements are:

1. The state Union conducts financial transactions on behalf of both bodies without formally differentiating state and federal expenses.

2. The state Union owns the assets, operates the bank accounts, enters into financial arrangements, employs staff, sets and collects membership fees and expends funds for the objects of both bodies.

With the transfer of our industrial relations jurisdiction to the federal jurisdiction, the state Union applied for, and was granted, transitional recognition. It is under that transitional recognition that the Organisers are granted their right of entry permits. Applications to the Fair Work Commission are routinely made in the name of the transitionally recognised state Union (although oftentimes the Commission mistakenly records the application as being made by the IEUA).

With the lapsing of transitional recognition arrangements on 31 December 2016, the employment of state Union staff will formally pass to the Branch in order to allow for Right of Entry permits to be issued.

1. Bank accounts will be established in the name of the Branch, the Branch will register for GST, payroll tax and all of the other arrangements that need to be put in place.
2. The state Union will retain ownership of the office building located at 213 Currie St, Adelaide and an arrangement will be entered into with the Branch for its use of same.
3. Various changes will be needed to the SA Branch rules to facilitate the expanded role of the Branch.
4. The IEUA has adopted a common set of accounts and policies to facilitate full and consistent financial reporting by all branches. The SA Branch will fully participate in this accounting and reporting regime from 1 Jan 2017.

With this background, I seek a s.271 certificate on the grounds that the reporting unit (the Branch) did not have any financial affairs in the 2015-16 financial year (1 Feb 2015 to 31 Jan 2016) and will not have any financial affairs in the shortened 2016 financial year (1 Feb 2016 to 31 Dec 2016). The Branch will however fully report financial affairs on and from 1 January 2017. The change to the financial year has already been incorporated into the federal rules. (R2015/120)

Regulation 165 prescribed circumstances are as follows

165 Prescribed circumstances (s 271 (1))

For subsection 271 (1) of the Act, the following circumstances are prescribed:

- (a) whether the reporting unit expends economic resources or incurs any financial obligations to conduct its activities;*
- (b) whether another reporting unit of the organisation expends its own economic resources or incurs financial obligations so that the reporting unit may conduct its activities;*
- (c) whether any person or body corporate or trust expends its own economic resources or incurs financial obligations so that the reporting unit may conduct its activities.*

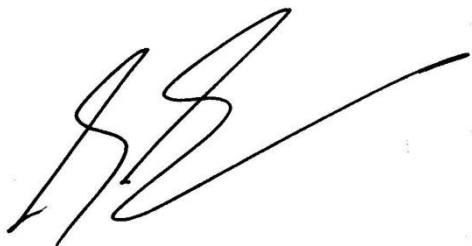
1. Reg 165 (a) - the reporting unit does not expend any of its own economic resources nor does it incur any financial obligations to conduct its activities and
2. Reg 165 (b) - another reporting unit of the organisation does not expend its own economic resources or incur financial obligations so that the reporting unit may conduct its activities and
3. Reg 165 (c) - the state Union (IEU(SA) Inc) expends its own resources and incurs financial obligations so that IEU(SA) Branch may conduct its activities.

Further I declare in response to specific questions put to me, that

1. The reporting unit does not maintain a bank account
2. The reporting unit does not hold any money in cash
3. The reporting unit did not receive any revenue during the financial year
4. The reporting unit did not expend any money during the financial year
5. The reporting unit incurred liabilities only so far as the affiliation fees payable to the Independent Education Union of Australia (IEUA) and to the Australian Council of Trade Unions (ACTU). These amounts were paid by and from the state Union's resources as were the costs associated with attendance at federal IEUA meetings.
6. No other reporting unit received money or incurred financial obligations so that the reporting unit could conduct its activities
7. The associated state registered union – Independent Education Union (South Australia) Inc has a formalised arrangement with the reporting unit that the state body (IEU(SA)Inc) collects membership fees from the common membership without differentiating or transferring a proportion due to the reporting body. Similarly the incidental expenses of the reporting unit are met from the funds of the state body (IEU(SA)Inc) without a requirement to reimburse the state body.

Essentially I am in an 11 month time frame to transform the financial structures from the state Union to the IEUA Branch by 31 December 2016. The granting of a s.271 exemption would make it unnecessary to totally restructure the accounting and reporting of the state Union's finances (and then abandon that investment) ahead of instigating a nationally consistent full set of accounts for the reporting unit to operate from 1 Jan 2017.

Yours sincerely



Glen Seidel
IEU(SA) Branch Secretary
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