



South Australian chapter

**national electrical and communications association**

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21 March 2016

Louise McCoy  
Returning Officer  
Elections Branch | SA State Office  
Australian Electoral Commission  
GPO Box 344  
ADELAIDE SA 5001

Dear Louise

**National Electrical Contractors Association  
SA Chapter Election Decision – Casual Vacancy - E2015/258**

I write to you in response to the Post Election Report dated the 26 of February 2016 and in particular the identification of a Rule that was difficult to interpret or apply.

The matter in question is in relation to current Rule 23(c) of the national rules 233V which state as follows:

- ( c ) Each nomination shall be made by a financial member of the Chapter (not being a Service Member) and shall be signed by the nominator and the candidate and shall be addressed to the Chapter Returning Officer at the office of the Chapter and shall be posted or delivered so as to reach that office not later than the closing date.

As previously discussed I would agree that a literal interpretation of the rule is quite clear that the nominations must be returned to the office of the Chapter which in practical terms is simply not appropriate causing unnecessary work for both the nominator and the AEC.

Please be informed that the NECA National Office is taking the necessary steps to correct this matter by scheduling a meeting of the National Council of the organisation on Monday the 4<sup>th</sup> of April to approve an amendment to Rule 23 (c) as follows:

Amended Rule 23(c)

Each nomination shall be made by a financial member of the Chapter (not being a Service Member) and shall be signed by the nominator and the candidate and shall be provided to the Chapter Returning Officer not later than the closing date.

It is our belief that this amendment will appropriately resolve the matter both in terms of clarity and difficulty to apply.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Larry Moore", with a stylized flourish at the end.

Larry Moore  
**Executive Director**



29 February 2016

Mr Laurence Moore  
Secretary

National Electrical Contractors Association, The-South Australian Chapter

[lmoore@necasa.asn.au](mailto:lmoore@necasa.asn.au)

Dear Mr Moore,

**Organisation must respond to the post-election report of the Australian Electoral Commission: E2015/258**

On 29 February 2016 the Fair Work Commission (the Commission) received a post election report from the Australian Electoral Commission (AEC) for election **E2015/258** dated 26 February 2016. The AEC will have also provided the report to the organisation under section 197 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

The report identifies rules that were difficult to interpret or apply, in particular rule 23(c). This letter serves as a reminder of the obligations imposed on the organisation or branch as a consequence of the AEC's report. If a response has already been sent to the AEC and made available to all members please disregard this letter.

**A written response must be provided to the AEC**

Section 198 of the RO Act requires that a written response is provided to the AEC within 30 days of receipt of the report. The organisation's response must include whether the organisation or branch intends to take action and if so what action the organisation or branch intends to take (s198(2)).

**A notice must be published on the organisation's website**

The organisation or branch must publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regs 141(4) and (5)).

**Extract of report and written response must be made available to members**

The organisation or branch must make the section of the report relating to the difficult rules available to its members (s198(3)). This extract from the report must be made available to the members before or at the same time as the organisation's response is made available to members.

A copy of the organisation's response must be made available to members either:

- within 30 days after the response is given to the AEC, or
- published in the next edition of the organisation or branch journal (s198(5))

Subsection 198(6) and regulation 142 prescribe ways in which the relevant extract and the copy of the response can be made available to members. These do not limit the ways in which they can be made available to members. The organisation will comply if it does all of the following:-

- publish the report extract and the copy of the response in the next edition of the organisation or branch's journal; and

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Melbourne VIC 3000  
GPO Box 1994  
Melbourne VIC 3001

Telephone: (03) 8656 4693  
Email : [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)  
Internet : [www.fwc.gov.au](http://www.fwc.gov.au)

- within 30 days of giving the response to the AEC:
  - lodges with the Commission a copy of the relevant extract and response, together with a declaration that a copy will be provided to any member who so requests; and
  - give notice in the next edition of the organisation or branch's journal, or an appropriate newspaper, that a copy of the relevant extract and response are available on request to each member free of charge; and
- publish the relevant extract on the website within 14 days after receiving the report, and publish the response on the website within 14 days of giving the response to the AEC (reg 142(2)).

### **Penalties may apply**

If the organisation or branch does not:

- respond to the AEC within 30 days,
- make the extract of the report relating to the rules available to members no later than the organisation's response is made available to members, or
- make the organisation's response available to members within 30 days or in the next edition of the journal,

the organisation may face penalties under the RO Act. Each requirement listed above is a civil penalty provision that may result in fines for the organisation

As noted above, if the response and report have already been made available to members and the AEC, please disregard this letter. If you have any questions in relation to these obligations please contact the Commission for assistance by email to [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au).

Yours sincerely

Nick Salzberg  
Regulatory Compliance Branch



29 February 2016

Mr Laurence Moore  
Secretary  
National Electrical Contractors Association, The-South Australian Chapter

[lmoore@necasa.asn.au](mailto:lmoore@necasa.asn.au)

Dear Mr Moore,

**Reminder of actions required when persons elected to office**

The Australian Electoral Commission has provided the Commission a declaration of results for the election [E2015/258]. This letter is a reminder of certain obligations imposed on organisations and persons elected to office.

Section 154D(1) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires the rules of organisations (and branches of organisations) to require each officer with financial management duties to undertake approved training that covers those duties within 6 months after the person begins to hold office. Please ensure that relevant officers undertake approved training within the required timeframe.

Please also ensure that all new holders of office are advised of their obligations to make disclosures regarding remuneration, non-cash benefits and material personal interests, the details of which should be provided for in your organisation's rules.

Also, section 233(2) of the RO Act requires that an organisation must notify the Fair Work Commission (the Commission) within 35 days of any changes to the holders of office in the organisation. If the election has resulted in any changes to the holders of office, the National Electrical Contractors Association, The-South Australian Chapter must notify the Commission of these changes. In particular, please advise:

1. Person(s) who have ceased to hold office:
  - the name of the office vacated;
  - the date of the change of office holder; and
  - the name of the person vacating the office.
2. Person(s) who have commenced to hold office:
  - the name of the office now held;
  - the date of the change of office holder;
  - the name of the person now holding the office;
  - the postal address of the person (generally the postal address of the organisation); and
  - the occupation of the person now holding the office.

The notification must include a declaration by the Secretary (or other prescribed officer) that the information is a correct statement of the changes made. I have attached a template notification of changes which may assist you. If any change does not apply until a specific date, you don't need to notify until then (e.g. AGM, 1 January, 2nd Monday in March). If you have already lodged this information, please disregard this reminder.

Regards

Nick Salzberg  
Regulatory Compliance Branch

**NOTIFICATION OF CHANGES TO RECORDS (Changes to Records in the Annual Return) required to be kept in accordance with section 230 *Fair Work (Registered Organisations) Act 2009* and regulation 147 *Fair Work (Registered Organisations) Regulations 2009***

I, [NAME], being the [OFFICER] of the [ORGANISATION NAME], declare the following:

1. I am authorised to make this declaration.
2. The following is a correct statement of the changes made to 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 *Fair Work (Registered Organisations) Act 2009*:

[delete all that do not apply]

- On [DATE] the address of the organisation changed to [STREET ADDRESS].<sup>1</sup>
- On [DATE] the name and/or address of a branch[es] of the organisation changed to:<sup>2</sup>
  1. [include OLD name and address and NEW name and address of every branch that has changed]
  2. ...
- A list of changes to offices and the names, postal addresses and occupations of persons holding those offices is attached to this declaration at Annexure A and forms part of this declaration.
- On [DATE] the following branch[es]:<sup>3</sup>
  - COMMENCED/CEASED operation:
    1. [include name of each new branch]
    2. ...

Signed: [SECRETARY OR OTHER AUTHORISED OFFICER]

Dated: [DATE]

**[PLEASE NOTE: This declaration must be submitted to the Fair Work Commission within 35 days of the change. It can be submitted to [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au).]**

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<sup>1</sup> s.230(1)(d); reg.147(d)

<sup>2</sup> s.230(1)(d); reg.147(a) & (d)

<sup>3</sup> s.230(1)(d); reg.147(b) & (c)

## ANNEXURE A

- Changes to Offices and Office Holders in the Organisation and its Branches [*insert as many pages as required*]:

*Please note the 35 days begins at the earliest event (for instance when the officer retires) and an organisation may need to notify the events separately if the appointment or election process will take longer than 35 days.*

Branch	Date of Change	Name of Office that has changed	Name of <u>Outgoing</u> Office Holder	Reason for change	Name of <u>New</u> Office Holder	Postal Address of <u>New</u> Office Holder (for privacy reasons, we recommend NOT a private address)	Occupation of <u>New</u> Office Holder
<i>National</i>	<i>1.1.2014</i>	<i>Secretary</i>	<i>Full Name</i>	<i>Retiring</i>	<i>Full Name</i>	<i>c/- the Registered Organisation, postal address of Registered Organisation</i>	<i>Paid official</i>
	<i>25.12.2013</i>	<i>President</i>	<i>vacant</i>	<i>Scheduled Election</i>	<i>Full Name</i>	<i>As above</i>	<i>mechanic</i>
...							
<i>NSW</i>	<i>1.1.2014 (resigned) 7.1.2014 (appointed)</i>	<i>President</i>	<i>Full Name</i>	<i>Resignation</i>	<i>Full Name</i>	<i>c/- the Branch, postal address of the Branch</i>	<i>mechanic</i>
		<i>Committee of Management Member</i>	<i>Full Name</i>	<i>Scheduled Election</i>	<i>Full Name</i>	<i>As above</i>	<i>mechanic</i>
		<i>Treasurer</i>	<i>Full Name</i>	<i>Scheduled Election</i>	<i>vacant</i>	<i>vacant</i>	<i>vacant</i>
...							

# The National Electrical Contractors Association Casual Vacancy - Member of Management Committee South Australian Chapter

## Declaration of Results for Contested Offices

### E2015/258

Below are 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.

#### South Australia Chapter

Total number of names on the roll of voters	366
Ballot papers issued	366
Replacement ballot papers issued	0
<b>Total Ballot Papers Issued</b>	<b>366</b>
Ballot papers / envelopes returned for scrutiny	50
Less ballot papers / envelopes rejected at preliminary	2
Adjusting balance	0
<b>Total Ballot Papers Admitted to Scrutiny</b>	<b>48</b>
Percentage of ballot papers returned to number issued	13.66%
Ballot papers returned as unclaimed mail	0
Ballot papers not returned	316

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#### Member of the Management Committee (1)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Votes</u>
CARROLL, Christopher	21	21
POULTON, Jarrod	26	26
Exhausted Votes		0
Loss/Gain by Fraction		0
Total votes	47	47
Formal ballot papers	47	47
Informal ballot papers	1	1

I declare Jarrod Poulton elected.



Louise McCoy  
Returning Officer  
Australian Electoral Commission

25 February 2016





Mr Laurence Moore  
Chief Executive Officer  
The National Electrical Contractors Association  
213 Greenhill Rd  
EASTWOOD SA 5063

Post-Election Report for:     **The National Electrical Contractors Association**  
  **Scheduled Election E2015/258**  
  **SA Chapter – Casual Vacancy**

I refer to the above elections for your organisation.

Section 197(1) of the Fair Work (Registered Organisations) Act 2009 requires the AEC to provide a written report on the conduct of the election to Fair Work Australia and to the organisation or branch for whom the election was conducted. A copy of the report in relation to this election is attached.

Section 198 of Fair Work (Registered Organisations) Act 2009 requires that if an organisation or branch is given a post election report under section 197 that identifies a rule that was difficult to interpret or apply, the organisation or branch must, within 30 days, give a written response to the AEC on that aspect of the report. The response must specify whether the organisation or branch intends to take any action in relation to the rule, and if so, what action it intends to take.

If the attached Report identifies a rule that was difficult to interpret or apply, you should forward your response to the AEC by email to [industrial.elections@aec.gov.au](mailto:industrial.elections@aec.gov.au) within thirty days of the date of the report.

Section 198 and the regulations also require an organisation to make the post election report and the organisation's response to the report (if applicable) available to members.

Further, Regulation 141(4) of the Fair Work (Registered Organisations) Act 2009 requires an organisation or branch to publish a notice on its web site advising members that a copy of the post election report is available upon request. If a website is not available, publishing a notice in a journal or newsletter would be considered appropriate.

Please contact me if you wish to clarify any aspect of this report.

Louise McCoy  
Returning Officer

26 February 26, 2016

Fair Work (Registered Organisations) Act 2009

**POST ELECTION REPORT**  
**The National Electrical Contractors Association**  
**SA Chapter – Casual Vacancy**

**ELECTION/S COVERED IN THIS REPORT**

Election Decision No/s: *E2015/258*

**RULES**

Rules used for the election: *[233V (FED): Incorporates alterations of 12 September 2014 (R2014/153) ] and, [233V-SA: Incorporates alterations of 5 April 2011 (R2010/3)]*

Rules difficult to apply/interpret: An examination of the Rule 23(c) has revealed that the lodgement of nominations for your members is prescriptive and restrictive in the options available to them. It may be advisable to maximise the options to consider changes to the rules to be less specific or to encompass the widest range of options (eg. post, fax or electronic lodgement).

Model Rule reference (if any): N/A

**ROLL OF VOTERS**

As there was one contested office, a Roll of Voters was required for the South Australian Chapter – Member of Management Committee position.

**IRREGULARITIES**

Details of written allegations of irregularities, and action taken by AEC: Nil  
Other irregularities identified, and action taken: Nil

**ATTACHMENTS**

- 1) Declaration of Results for Contested Offices (SA Chapter)



Louise McCoy  
Returning Officer  
26 February 2016



## DECISION

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

### **The National Electrical Contractors Association** (E2015/258)

MR ENRIGHT

MELBOURNE, 19 NOVEMBER 2015

*Arrangement for conduct of election – casual vacancy.*

[1] On 16 October 2015 the South Australian Chapter of the National Electrical Contractors Association, lodged with the Fair Work Commission the prescribed information in relation to an election to a casual vacancy in the following office:

Member of the Management Committee (1)

[2] I am satisfied that an election for the abovenamed office 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 GENERAL MANAGER

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I, Laurence John Moore, being the Secretary of the National Electrical Contractors Association – South Australian Chapter, make the following statement:

I am the Secretary of the National Electrical Contractors Association – South Australian Chapter,

I am authorised to lodge the following prescribed information concerning forthcoming elections in the National Electrical Contractors Association – South Australian Chapter of the National Electrical Contractors Association, and

I confirm that the following information is being lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009*.

Signed:  .....

Dated: *21 October 2015* .....

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## Office

Committee of Management Member (Direct Voting System)

### Reasons for election:

- An election for a Chapter Committee Member is required to fill a casual vacancy that has recently occurred.
- The member who resigned, Nicole Cheesman-Dutton, was re-elected to the Office of Chapter Committee Member on the 15<sup>th</sup> of June 2015 and subsequently tendered her resignation on the 18<sup>th</sup> of August' effective the 30<sup>th</sup> of September 2015. (documentary information relating to the resignation of the person holding the office of Chapter Committee Member and re-election notification by way of the AEC declaration is attached).

### Elected by:

- The electorate for the direct voting system is the whole of the SA Chapter (rule 23 of the National Rules).
- The casual vacancy cannot be filled by the SA Chapter Committee of Management by the appointment of a financial member because the unexpired part of the term of the office exceeds 12 months or three quarters of the term and must be filled by an election (rule 28 of the National Rules)

### Nominations open:

- As determined by the Chapter Returning Officer (Australian Electoral Commission) (rule 23 of the National Rules

**Nominations close:**

- As determined by the Chapter Returning Officer (Australian Electoral Commission) (rule 23 of the National Rules)

**Cut off date for roll:**

- In all cases – 10 working days prior to the opening date for nominations (rule 23 of the National Rules)