



31 October 2017

Mr Wayne Smith
National Fire Industry Association
wsmith@nfia.com.au

Dear Mr Smith

Organisation must respond to the post-election report of the Australian Electoral Commission: E2017/86

On 27/10/2017 the Registered Organisations Commission (the ROC) received a post election report from the Australian Electoral Commission (AEC) for election E2017/86 dated 27/10/2017. 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 rules 44(k), 44(l), 45(e) and 45(g). 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 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)).

A written response must be provided to the AEC

A written response must be 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)).

Extract of report 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.

Written response must be made available to members

A copy of the organisation's response to the AEC 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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- within 30 days of giving the response to the AEC:
 - lodges with the ROC 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 ROC for assistance by email to regorgs@roc.gov.au.

If the organisation or branch decides to alter its rules in response to the AEC's report

If the organisation or branch decides to alter its rules in response to the AEC's report, the ROC is NOT able to provide advice and assistance regarding draft alterations or the processes required to make the alterations. Rule alterations remain a function of the Fair Work Commission.

Yours faithfully

Christine Hibberd

Registered Organisations Commission

27 October 2017

Post-election Report

**Vacancy Election NFIA National Fire Industry
Association E2017/86**

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Election(s) Covered in this Report

Election Decision No/s: E2017/86

Rules

Rules used for the election: 164V Incorporates alterations of 07/01/2014 [R2014/277]

Rules difficult to apply/interpret:

44(k) conflicts with 44(l) – Rule stipulates preferential voting however there can only ever be one position of each office filled therefore preferential voting cannot be used.

45(e) conflicts with 45(g) – Rule stipulates preferential voting however there can only ever be one position of each office filled therefore preferential voting cannot be used.

Module Rule reference (if any) N/A

Roll of Voters

As there were no contested offices, no ballot was required.

Irregularities

N/A

Other Matters

N/A

Attachments

- 4) Declaration of Results for Uncontested Offices



Matthew Tranter
Returning Officer

27 October 2017

National Fire Industry Association
National Fire Industry Association - Scheduled Election
E2017/86

Declaration of Results for Uncontested Offices

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.

National

President

Candidates

HICKMAN, Andrew James

Vice-President

Candidates

MOHTADI, Haysam

Secretary-Treasurer

Candidates

BENNETT, Shayne

Queensland/Northern Territory Region

Councillor representing Industrial members

Candidates

DAVIES, Brian Geoffrey

Councillor representing General Members

Candidates

HICKMAN, Andrew James

New South Wales/Australian Capital Territory Region

Councillor representing Industrial Members

Candidates

STALLEY, Gordon

Councillor representing General Members

Candidates

TREVOR, Stephen

Victoria/Tasmania Region

Councillor representing Industrial Members

Candidates

WOOD, Jeff

Councillor representing General Members

Candidates

MOTHADI, Haysam

South Australia Region

Councillor representing Industrial Members

Candidates

BENNETT, Shayne

Councillor representing General Members

Candidates

DUNN, Graham

Western Australia Region

Councillor representing Industrial Members

Candidates

THOMAS, Andy

Councillor representing General Members

Candidates

No nomination was received

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



Matthew Tranter
Returning Officer

17/10/2017



DECISION

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

National Fire Industry Association (E2017/86)

MR ENRIGHT

MELBOURNE, 28 JULY 2017

Arrangement for conduct of election.

[1] On 1 June 2017 the National Fire Industry Association (the Association) lodged with the Registered Organisations Commission (the Commission) prescribed information for an election to fill the following offices:

Councillors (no more than 10)

President

Vice President

Secretary-Treasurer

[2] The Association did not lodge the prescribed information before the prescribed day as required by regulation 138(3) of the Fair Work (Registered Organisations) Regulations 2009. The prescribed information should have been lodged by 24 May 2017. On 28 July 2017, the Association advised that the delay was due to a change of personnel and that actions had been taken by the Association in order to remedy deficiencies that resulted in the late lodgement of the prescribed information.

[3] I am not satisfied that the above reason is a sufficient ground to justify the failure to comply with a statutory obligation. Having regard to the normal and reasonable expectation that registered organisations 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 formulated by the organisations themselves, I decline on this occasion to allow, under section 189(2) of the Act, a later day for lodgement. The failure to lodge the prescribed information before the prescribed day therefore renders the organisation liable for a civil penalty provision pursuant to section 189(2) of the Act.

[4] The refusal of an extension of time under section 189(2) of the Act does not, however, affect a determination of an election notification matter for the purposes of section 189(3) of the Act.

[5] I also note a number of deficiencies in the prescribed information to which I draw the Association's attention. First, it is clear from rule 44(h) of the Association's rules that the office-bearers (the President, Vice President and Secretary-Treasurer) are elected by and from members of the Council; however the prescribed information incorrectly identifies this as a direct voting system (DVS) election. Further the DVS election of the Councillors as specified in rule 25 is incorrectly identified as a 'preferential voting system'.

[6] Second, I note that the prescribed information requests an election for 'no more than 10' Councillors. Rule 44(b) does provide for a 'maximum of 10 elected persons'; however the prescribed information must identify a fixed number of positions. I note that the Association has confirmed with the Commission on 28 July 2017 that the election request is for 10 Councillors.

[7] I also recommend that the prescribed information provide further information about the election of the Councillors as outlined rules 25(a) and (b), namely that five Councillors are to be representative of employers of sprinkler pipe fitters; five of the other ('general') members; and that there shall be a maximum of two elected representatives (one from each of the sectors represented as 'industrial' and 'general'), each being representative of one of the geographical regions specified in rule 44(f) and elected by members of that region.

[8] I note that some of these deficiencies have been brought to the Association's attention in recent elections and strongly urge that such errors be rectified in future.

[9] Further, having regard to the conduct exposing the potential civil penalties available for contravention of section 189(2) of the Act and the deficiencies to which I have referred, I advise the organisation that it can expect an appropriate and proportionate regulatory response in the event that these or similar deficiencies were to re-emerge.

[10] I am satisfied that an election for the below-listed offices is required to be held under the rules of the organisation:

Councillors (10)

President

Vice President

Secretary-Treasurer

[11] Consequently, 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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1 June 2017



General Manager
Registered Organisations Commission
GPO Box 2983,
MELBOURNE Vic 3001

Notice and Statement of Prescribed Information for an Election

Please find attached the Notice and Statement of Prescribed Information for an Election from Mr Shayne Bennett, Secretary-Treasurer, National Fire Industry Association, for the conduct of the Associations 2017 Elections by the Australian Electoral Commission.

The NFIA contact to liaise with the Australian Electoral Commission is:

Mr Wayne Smith
Chief Executive Officer
M: 0418 736 371
E: wsmith@nfia.com.au

If you have any questions, please do not hesitate to contact me.

Regards

A handwritten signature in black ink, appearing to read "C. Coate".

Carmel M Coate
Director, Training & Education

PRESCRIBED INFORMATION FOR ELECTIONS IN ACCORDANCE WITH SECTION 189 FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009 AND REGULATION 138 FAIR WORK (REGISTERED ORGANISATIONS) REGULATIONS 2009

I, Shayne Bennett, being the Secretary/Treasurer of the National Fire Industry Association make the following statement:

1. I am authorised to sign this statement containing prescribed information for National Fire Industry Association.
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. This statement is lodged 2 months before nominations open for the election below.



Signed:

Shayne Bennett / Secretary-Treasurer

Dated: 1 June 2017

ANNEXURE A

Elections required

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
A	Council	No more than 10	Preferential Voting System	Scheduled as the terms of office are due to expire in the normal course of events under the rules of the organisation	National
B	Office Bearers President Vice President Secretary-Treasurer	1 each position	Direct Voting System	Scheduled as the terms of office are due to expire in the normal course of events under the rules of the organisation	National Council Office Bearers

Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	<i>As determined by the Australian Electoral Commission and Rule 44 of the organisation</i>	<i>As determined by the Australian Electoral Commission and Rule 44 of the organisation</i>
Nominations CLOSE	<i>As determined by the Australian Electoral Commission and Rule 44 of the organisation</i>	<i>As determined by the Australian Electoral Commission and Rule 44 of the organisation</i>
Roll of Voters cut off date	<i>As determined by the Australian Electoral Commission and Rule 44 of the organisation</i>	<i>As determined by the Australian Electoral Commission and Rule 44 of the organisation</i>