



22 February 2016

Mr Matteo Pignatelli
President
Restaurant & Catering Industrial

restncat@restaurantcater.asn.au

Dear Mr Pignatelli,

Organisation must respond to the post-election report of the Australian Electoral Commission: E2015/251

On 15 February the Fair Work Commission (the Commission) received a post election report from the Australian Electoral Commission (AEC) for election E2015/251 dated 12 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 14A(b). 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

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

Telephone: (03) 8656 4693
Email : orgs@fwc.gov.au
Internet : 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.

Yours sincerely



Nick Salzberg
Regulatory Compliance Branch



16 February 2016

Mr Matteo Pignatelli
President
Restaurant & Catering Industrial
restncat@restaurantcater.asn.au

Dear Mr Pignatelli,

Reminder of actions required when persons elected to office

The Australian Electoral Commission has provided the Commission a declaration of results for the election [E2015/251]. 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 Restaurant & Catering Industrial 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].¹
- On [DATE] the name and/or address of a branch[es] of the organisation changed to:²
 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]:³
 - 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.]

¹ s.230(1)(d); reg.147(d)

² s.230(1)(d); reg.147(a) & (d)

³ 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>
...							

Restaurant & Catering Industrial Stage 1 - Executive Councillors

Declaration of Results for Contested Offices

E2015/251

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

Total number of names on the roll of voters	1602
Ballot papers issued	1602
Replacement ballot papers issued	0
Total Ballot Papers Issued	1602
Ballot papers / envelopes returned for scrutiny	153
Less ballot papers / envelopes rejected at preliminary scrutiny	31
Adjusting balance	0
Total Ballot Papers Admitted to Scrutiny	122
Percentage of ballot papers returned to number issued	9.55%
Ballot papers returned as unclaimed mail	23
Ballot papers not returned	1426

Executive Councillor (4)

<u>Candidates</u>	<u>Votes</u>
TRIPPAS, Brien	65
SCANLAN , Mark	73
CASTRISOS, Con	53
SEERY, Mark	55
PIGNATELLI , Matteo	82
KALOGEROPOULOS , Nicholas	34
Total votes	362
Formal ballot papers	119
Informal ballot papers	3

I declare Matteo Pignatelli, Mark Scanlan, Brien Trippas and Mark Seery elected.

Ann Dougan
Returning Officer
Australian Electoral Commission
15 January 2016

Restaurant & Catering Industrial Stage 2 - Officers

Declaration of Results for Uncontested Offices

E2015/251

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.

President

Candidates

SCANLAN, Mark

Vice-President (2)

Candidates

PIGNATELLI, Matteo
SEERY, Mark

Treasurer

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.



Ann Dougan
Returning Officer
10 February 2016

Mr Greg Parkes
Workplace Relations Director
Restaurant & Catering Industrial
PO Box 121
SURRY HILLS NSW 2010

**Post Election Report For: Restaurant & Catering Industrial
Election E20015/251**

I refer to the above election for your organisation.

Section 197(1) of Schedule 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 Schedule 1 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' 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.



Ann Dougan
Returning Officer

12 February 2016

Fair Work (Registered Organisations) Act 2009

POST ELECTION REPORT

Restaurant & Catering Industrial

ELECTION/S COVERED IN THIS REPORT

Election Decision No/s: E2015/251

RULES

Rules used for the election: 269V-FED: Incorporates alterations of 13/07/2015 (R2015/76) and 17/07/2015 (R2014/274) [replaces 11/08/2014 version (D2014/55 and D2014/56)]

Rules difficult to apply/interpret: 14A(b) the Returning Officer shall forward by post to each member of the Association a notice calling for nominations.....

A review of this rule is recommended based on the recent changes to Australia Post delivery schedules as well as the increasing cost of postage.

The organisation may wish to consider changing the means of publication of an Election Notice from by post to each member to an option where the returning officer can determine the method of delivery taking into consideration the most efficient and cost effective means of distribution of the election notice.

Model Rule reference (if any): N/A

ROLL OF VOTERS

Total number of voters on the Roll: Stage 1: 1602
Stage 2: Uncontested
Number of apparent workplace addresses: Most, however this is appropriate given the nature of the organization.
Number of non-current addresses: Nil
Other matters pertaining to the roll of voters: Nil

IRREGULARITIES

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

Other irregularities identified, and action taken: Nil

ATTACHMENTS

Declaration of Results

1. Declaration – Stage 1 - Executive Councillors
2. Declaration – Stage 2 - Officers

A handwritten signature in black ink, appearing to read 'Ann Dougan', with a stylized flourish at the end.

Ann Dougan
Returning Officer

12 February 2016



DECISION

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

Restaurant & Catering Industrial (E2015/251)

MR ENRIGHT

MELBOURNE, 9 NOVEMBER 2015

Arrangement for conduct of election.

[1] On 22 September 2015, the Restaurant & Catering Industrial (the organisation) lodged with the Fair Work Commission (the Commission) the prescribed information in relation to an election for the following offices:

Executive Councillors (4)

President

Vice President (2)

Treasurer

[2] Staff of the Commission contacted the organisation to discuss the timing and content of the prescribed information. Further information was received from the organisation on 5 November 2015.

[3] The organisation did not lodge the prescribed information before the prescribed day in accordance with section 189(2) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).

[4] On 4 November 2015, the Commission contacted the organisation informing them that the prescribed information had not been lodged before the prescribed day. The Workplace Relations Director of the organisation, Mr Parkes, informed the Commission that the delay was due to the certification of rule alterations in July.

[5] I have considered the organisation's verbal request for an extension of time and the explanation for the delay in lodging the prescribed information as provided by Mr Parkes. As stated, rule alterations were certified on 13 and 17 July 2015. These rules, amongst other things, extended the term of office for future officers. The alteration to the rules did not affect the date upon which nominations for the elections opened.

[6] Under the rules, nominations for Councillors open not less than 60 days before the AGM and the prescribed information is required to be lodged two months before the first day when a person may become a candidate in the election. Consequently, for an AGM on 7

December 2015, the prescribed information was required to be lodged no later than 8 August 2015, a date that occurred three weeks after the certification of the rules in July.

[7] I have also taken into consideration the circumstances surrounding three previous elections of the organisation including the following:

The relevant prescribed information was lodged late in E2012/422 ([2013] FWCD 519) potentially exposing the organisation to a civil penalty provision by contravening section 189(2) of the RO Act;

The relevant prescribed information was lodged late in E2013/327 ([2013] FWCD 10187) potentially exposing the organisation to a civil penalty provision by contravening section 189(2) of the RO Act; and

The relevant prescribed information was lodged late in E2014/192 ([2014] FWCD 6473) potentially exposing the organisation to a civil penalty provision by contravening section 189(2) of the RO Act.

The late lodgement of prescribed information in E2015/251 is the fourth consecutive lodgement of prescribed information which has failed to meet the prescribed statutory time lines.

[8] I note that in each of the previously arranged elections above an extension of time was granted. However, the continued failure by the organisation to comply with its statutory obligations has reached the point where the discretion to continue to provide extensions, unless exceptional circumstances apply, has in my view, been exhausted.

[9] Having regard to the normal and reasonable expectation that registered organisations take steps to ensure that they comply with the timeframe requirements set out in the Act, I decline on this occasion to allow, in the formal sense intended by section 189(2) of the Act, a later day for lodgement. I note the organisation is potentially exposed to a civil penalty provision by contravening section 189(2) of the RO Act.

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

[11] 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 GENERAL MANAGER

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SUPPLEMENTARY STATEMENT

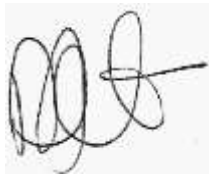
I, Matteo Pignatelli, President of the Restaurant & Catering Industrial, make this supplementary statement in respect to the Prescribed Information Statement lodged in accordance with section 189 of the Fair Work (Registered Organisations) Act 2009 (the Act) on 22 September 2015.

In respect to Item 3 the electorate for the elections should read as follows:

3. The electorate for the elections is:

By the financial members of the Restaurant & Catering Industrial for the Councillors and officers shall be elected by the Executive Council.

I declare that this statement is true and correct in all particulars and that I am authorised to make this statement as President.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Matteo Pignatelli
President
4 November 2015



Restaurant
& Catering

SAVOUR
AUSTRALIA

22 September 2015

General Manager
Fair Work Commission
GPO Box 1994
MELBOURNE VIC 3001

Via email: orgs@fwc.gov.au

Dear Ms O'Neill

RE: *Fair Work (Registered Organisations) Act 2009 – S.189*

Please find enclosed Prescribed Information in Respect of Election – Section 189 of Schedule 1 of the *Fair Work (Registered Organisations) Act 2009*.

Your assistance in progressing this matter is appreciated and I look forward to hearing of advice from the Australian Electoral Commission for the conduct of the elections.

Yours sincerely

John Hart
Director

RESTAURANT & CATERING INDUSTRIAL
ABN 31 739 604 819

Level 3, 154 Pacific Highway St Leonards NSW 2065
T: 1300 722 878 F: 1300 722 396

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PRESCRIBED INFORMATION IN RESPECT OF ELECTION
SECTION 189
Fair Work (Registered Organisations) Act 2009

I, Matteo Pignatelli, President of the Restaurant & Catering Industrial, am authorized to sign this statement which is lodged in accordance with section 189 of the Fair Work (Registered Organisations) Act 2009 (the Act).

1. The offices in respect of which the elections are required are:

President
Vice President (2)
Treasurer
Executive Councillor (4)

2. The reason for which the elections are required are:

The Association recently amended its rules allowing for 3 year terms of Councillors as per Decision R2015/76 [2015] FWCD 2838 on 13 July 2015 and other rule changes detailed in R2015/274 [2015] FWCD 4799 17 July 2015.

This will be the first election of Councillors for the 3 year term.

3. The electorate for the elections is:

By the financial members of the Restaurant & Catering Industrial for the Councillors and a collegiate for the offices of President, Vice Presidents (2) and Treasurer.

4. The dates and times that nominations open and close are:

The date of the Annual General Meeting has been set at 7 December 2015. For Councillors – Nominations must open not less than sixty days prior to the Annual General Meeting and close not less than 21 days later – rule 14A(b)
The date on which the roll of voters for the ballot to be closed is seven days before the day on which nominations open – rule 14A(b).

For the Offices of President, Vice Presidents (2) and Treasurer – within 7 days of the declared results of the Council elections and close not less than 14 days later – rule 14B (b)

5. The voting system to be used in the conduct of the elections is:

A direct voting system for the 4 Executive Councillors offices and a collegiate election for the offices of President, Vice Presidents (2) and Treasurer.



Matteo Pignatelli
President
22 September 2015