



Australian Government  
Registered Organisations Commission

23 August 2019

Mark Scanlan  
President  
Restaurant & Catering Industrial  
Sent via email: [info@restaurantcater.asn.au](mailto:info@restaurantcater.asn.au)  
CC: [carlyon@rca.asn.au](mailto:carlyon@rca.asn.au)

Dear Mark Scanlan,

**Section 271 application for certificate of exemption from the requirements of Part 3 of Chapter 8 of the *Fair Work (Registered Organisations) Act 2009* (the Act) (FR2019/162)**

I refer to the application lodged pursuant to section 271(1) of the Act by the Restaurant & Catering Industrial (the reporting unit) for the financial year ended 30 June 2019. The application was lodged with the Registered Organisations Commission on 16 July 2019.

The application has been granted. The certificate is attached.

If you wish to discuss this matter, please contact me on 1300 341 665 or by email at [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

Yours faithfully

A handwritten signature in blue ink, appearing to be 'CE' followed by a flourish.

**Chris Enright**  
**Registered Organisations Commission**



Australian Government  
Registered Organisations Commission

# CERTIFICATE

*Fair Work (Registered Organisations) Act 2009*

s.271—Certificate of exemption from requirements of Chapter 8, Part 3

**Restaurant & Catering Industrial**

FR2019/162

MR ENRIGHT

MELBOURNE, 23 AUGUST 2019

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

[1] On 16 July 2019 an application was made under s.271(1) of the *Fair Work (Registered Organisations) Act 2009* by Restaurant & Catering Industrial for a certificate of exemption in respect of the financial year ended 30 June 2019.

[2] I am satisfied that the reporting unit did not have any financial affairs in respect of the financial year ended 30 June 2019.



DELEGATE OF THE COMMISSIONER

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Restaurant  
& Catering

SAVOUR  
AUSTRALIA



16 July 2019

Commissioner  
Registered Organisations Commission  
GPO Box 2983  
MELBOURNE VIC 3001

By email only: [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au)

Dear Sir,

**Application for Exemption Under s.271 of the *Fair Work (Registered Organisations) Act 2009***

Restaurant & Catering Industrial (**R&CI**) would like to make an application for exemption pursuant to s.271(1) of the *Fair Work (Registered Organisations) Act 2009* (the "**Act**") for the financial year ended 30 June 2019 (**FYE 2019**). In making this application, R&CI confirm the following:

1. R&CI does not maintain a bank account.
2. R&CI does not hold money in cash.
3. R&CI did not receive revenue nor expend any money during FYE2019 .
4. R&CI did not hold an interest in any real or personal property for FYE2019 ;
5. R&CI does not act as trustee in any form;
6. R&CI does not have any funds under rule 7 (Subscription and Levies) under the Registered Rules of R&CI;
7. The members of R&CI pay levies under the rules of the organisation to Restaurant & Catering Industry Association of Australia Inc. (ABN 73 080 269 905) trading as Restaurant & Catering Australia;
8. R&CI has elected to allow Restaurant & Catering Industry Association of Australia Inc. (ABN 73 080 269 905) trading as Restaurant & Catering Australia to retain the total of subscription fees collected by R&CI. Therefore, the Restaurant & Catering Industry Association of Australia Inc. (ABN 73 080



RESTAURANT & CATERING INDUSTRY ASSOCIATION

PO Box 121, SURRY HILLS NSW 2010 T: 1300 722 878 F: 1300 722 396 E: [info@restaurantcater.asn.au](mailto:info@restaurantcater.asn.au)

269 905) trading as Restaurant & Catering Australia retains the total fees received for R&CI and relies on Restaurant & Catering Industry Association of Australia Inc. (ABN 73 080 269 905) trading as Restaurant & Catering Australia to complete administrative and/or secretarial duties;

9. R&CI has not secured any funds to discharge its obligations;

10. R&CI received a Certificate of exemption under s.271 of the Act for the last financial year; and

11. Restaurant & Catering Industry Association of Australia Inc. (ABN 73 080 269 905) trading as Restaurant & Catering Australia has effective control over the funds of the R&CI with respect to the management of funds.

Having regard to the above, we accordingly request that an application be granted pursuant to s.271 of the Act and look forward to confirmation of the same.

Should you have any questions regarding the above, please do not hesitate to contact our office to discuss.

Yours sincerely,

A handwritten signature in black ink, reading "Matteo Pignatelli". The signature is written in a cursive, flowing style.

**Matteo Pignatelli**

**Officer**

**Restaurant & Catering Industrial**



2 July 2019

Mark Scanlan  
President  
Restaurant & Catering Industrial  
Sent via email: [info@restaurantcater.asn.au](mailto:info@restaurantcater.asn.au)

Dear Mark Scanlan,

**Re: Lodgement of Financial Report - FR2019/162**  
***Fair Work (Registered Organisations) Act 2009 (the RO Act)***

The financial year of the Restaurant & Catering Industrial (the reporting unit) ended on 30 June 2019. This is a courtesy letter to remind you of the reporting unit's obligations regarding financial reporting.

### **Loans Grants and Donations Statement**

The reporting unit is required to lodge a statement showing the relevant particulars in relation to each loan, grant or donation of an amount exceeding \$1,000 for the reporting unit during its financial year. Section 237 of the RO Act requires this statement to be lodged with the Registered Organisations Commission (the ROC) within 90 days of the end of the reporting unit's financial year, that is on or before 28 September 2019.

The attached fact sheet *Loans Grants and Donations* (FS 009) summarises the requirements of the Loans Grants and Donations Statement. A sample statement of loans, grants or donations is available on our [website](#).

It should be noted that s.237 is a civil penalty provision. If a loan, grant or donation over \$1000 has been made, failure to lodge a statement of loans, grants and donations (including failure to lodge on time) may result in legal proceedings being issued with the possibility of a pecuniary penalty (up to \$105,000 for each contravention for a body corporate and up to \$21,000 for each contravention for an individual) being imposed upon your organisation and/or an officer whose conduct led to the contravention.

### **Financial report**

The RO Act sets out a particular chronological order in which your financial report must be prepared, audited, provided to members, presented to a meeting and then lodged with the ROC. The attached document *Summary of Financial Reporting timelines* (FS 008) summarises these requirements.

We emphasise that the reporting unit is required to present its audited financial report to a meeting (either of members or of the committee of management, depending on your rules) no later than 31 December 2019 (s.266). The full financial report must be lodged with the ROC within 14 days of that meeting (s.268).

When assessing your financial report, we will continue to focus closely on timelines as well as how loans, grants and donations are reported. The financial report must break down the amounts of grants and donations and these figures will be compared to the loans, grants and donations statement (see attached *Loans Grants and Donations* fact sheet FS 009).

You can visit our website for more information regarding [financial reporting](#), and fact sheets regarding [financial reporting processes and requirements](#). A model set of financial statements developed by the ROC is also available on our website. It is not obligatory to use this model but it is a useful resource to ensure compliance with the RO Act, the Reporting Guidelines and the Australian Accounting Standards.

It should be noted that s.268 of the RO Act is a civil penalty provision. Failure to lodge the full financial report (including failure to lodge on time) may result in legal proceedings being issued with the possibility of a pecuniary penalty (up to \$105,000 for each contravention for a body corporate and up to \$21,000 for each contravention for an individual) being imposed upon your organisation and/or an officer whose conduct led to the contravention (s.268).

### **Auditor's report**

When assessing the financial report we will also focus on the structure and content of the auditor's report to ensure that it complies with the revisions made to the Auditing Standards which came into effect from 15 December 2016. Please find [here](#) a link to guidance note *Illustrative Auditor's Report* (GN 004) relating to these requirements (which can also be located on our website).

## **REMINDER**

### **YOUR AUDITOR MUST BE REGISTERED (s.256)**

You must ensure that your auditor is registered by the Registered Organisations Commissioner. A list of registered auditors is available on our [website](#).

### **Contact**

Should you require any clarification in relation to the above, please email [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

Yours faithfully,

**Kylie Ngo**  
**Registered Organisations Commission**

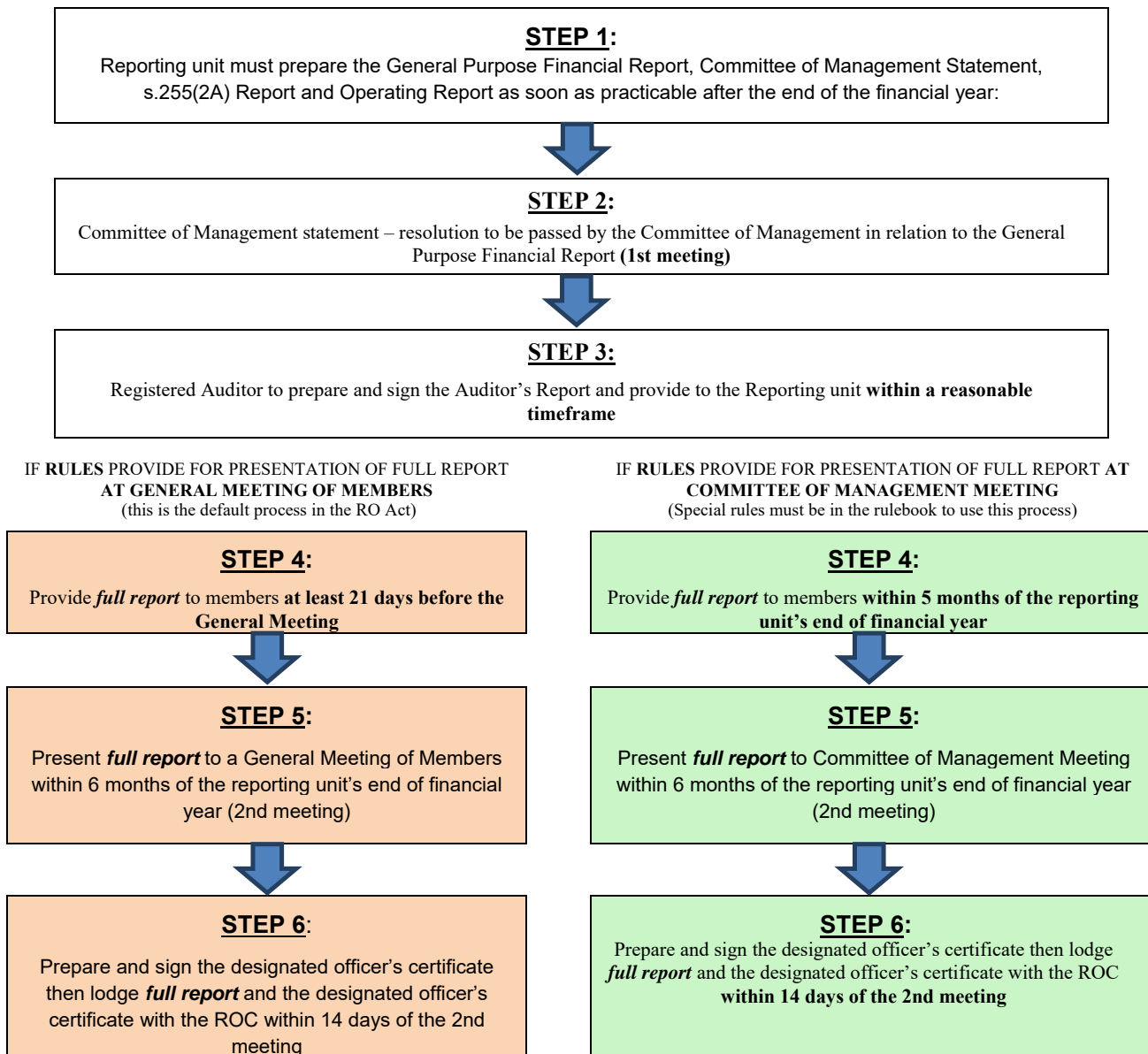


## Fact sheet

### Summary of financial reporting timelines – s.253 financial reports



















#### General Information:

- The **full report** consists of the General Purpose Financial Report, Committee of Management Statement, Operating report, s.255(2A) Report and signed Auditors' Report
- For an explanation of each of the steps below see our [Fact sheet—financial reporting process](#).



## Misconceptions

Over the years, staff of the Commission have noted that there are some common misunderstandings made in relation to the Financial Reporting Process. They include:

Misconception	Requirement
 The Committee of Management statement is just copied from the Reporting Guidelines	 The Committee of Management statement must have the date of the Committee of Management resolution recorded upon it and it must be signed and dated BEFORE the auditor signs their report  Further, if any of the statements within it need to be modified to suit the reporting unit (for instance not holding meetings) these changes must also be made
 The Auditor's Report does not need to be signed until just before it is lodged with the ROC	 The Auditor's Report must be signed and dated BEFORE the full report (including the Auditor's Report) is sent to members and presented to the second meeting
 The Designated Officer's Certificate must be signed before the report is sent to members	 The Designated Officer's Certificate declares what the reporting unit HAS ALREADY DONE to provide the report to members and present it to the meeting. It must be signed and dated AFTER sending the report to members and the second meeting
 Documents can be dated when they should have been signed or when the events in the document occurred	 Documents must always be dated at the date they are actually signed by an officer or auditor
 Any auditor can audit a financial report	 Only registered auditors can audit the financial report
 The Committee of Management statement can be signed at any time	 The resolution passing the Committee of Management Statement must occur and the statement signed and dated BEFORE the auditor's report is signed and dated
 Any reporting unit can present the Full Report to a second COM meeting	 Only reporting units with a 5% rule in their rulebook are able to present their report to a second Committee of Management Meeting. Otherwise, it must be presented to a General Meeting of members
 Everything can be done at one Committee of Management meeting	 If the rules allow for presenting the report to the Committee of Management, there must still be <u>two meetings</u> . The first meeting resolves the Committee of Management statement (including signing and dating it). Between the two meetings the Auditor's report is signed and dated. Only then can the full report be presented to the second Committee of Management meeting (if the rules allow)
 The reporting unit has 6 months and 14 days to lodge their financial report with the ROC	 The reporting unit must lodge the financial report within 14 days of the second meeting

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This fact sheet is not intended to be comprehensive. It is designed to assist in gaining an understanding of the Registered Organisations Commission and its work. The Registered Organisations Commission does not provide legal advice.





## **Fact sheet**

### Loans, Grants & Donations

#### **The Loans, Grants & Donations Requirements**

The *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires an organisation or branch to lodge a loans, grants and donations statement (the statement) within **90 days** of the ending of the financial year.

Under the Commissioner's Reporting Guidelines, a reporting unit's General Purpose Financial Report (the financial report) must break down the amounts of grants and donations (see below). The figures in the financial report will be compared to the loans, grants and donations statement.

#### **The Loans, Grants & Donations Statement**

Section 237 of the RO Act applies to every loan, grant and donation made by an organisation or branch during the financial year that exceeds \$1000. The following information must be supplied to the Registered Organisations Commission (the ROC) for each relevant loan, grant or donation:







- the amount,
- the purpose,
- the security (if it is a loan),
- the name and address of the person to whom it was made,\* and
- the arrangements for repaying the loan.\*

\*The last two items are not required if the loan, grant or donation was made to relieve a member of the organisation (or their dependent) from severe financial hardship.

The statement must be lodged within 90 days of the end of the financial year and the ROC has a [Template Loans, Grants and Donations Statement](#) on its website. The ROC encourages branches and organisations to lodge the statement even if all of the figures are NIL.

## Common misconceptions

Over the years, staff of the Commission have noted that there are some common misunderstandings made in relation to the Statement. They include:

Misconception	Requirement
 Only reporting units must lodge the Statement.	 All branches and organisations, regardless of whether they lodge a financial report, must lodge the statement within 90 days of the end of the financial year. An organisation cannot lodge a single statement to cover all of its branches.
 Employees can sign the Statement.	 The statement must be signed by an elected officer of the relevant branch.
 Statements can be lodged with the financial report.	 The deadline for the statement is much shorter (90 days) and if it is lodged with the financial report it is likely to be late.

## Grants & Donations within the Financial Report

Item 14(e) of the Commissioner's Reporting Guidelines requires the reporting unit to separate the line items relating to grants and donations into grants or donations that were \$1000 or less and those that exceeded \$1000.

As such, the note in the financial report relating to grants and donations will have four lines.

In the [ROC's Model Statements](#) the note appears as follows:

### Note 4E: Grants or donations\*

	2017	2016
Grants:		
Total expensed that were \$1,000 or less	-	-
Total expensed that exceeded \$1,000	-	-
Donations:		
Total expensed that were \$1,000 or less	-	-
Total expensed that exceeded \$1,000	-	-
<b>Total grants or donations</b>	<b>-</b>	<b>-</b>

The Commissioner's Reporting Guidelines requires that these line items appear in the financial statements, the notes or in the officer's declaration statement, even if the figures are NIL.

## **Implications for filing the Financial Report**

During their review of the financial report staff of the ROC may confirm that the figures in the financial report match the disclosures made in the statement. Any inconsistencies in these figures will be raised with the organisation or branch for explanation and action.

This may involve lodging an amended loans, grants or donations statement. Any failure to lodge a loans, grants or donations statement or lodging a statement that is false or misleading can attract civil penalties under the RO Act.

If a reporting unit did not fully comply with these requirements in their last financial report, its filing letter will have included a statement reminding the reporting unit of its obligations.

It is strongly recommended that all reporting units review their filing letters from the previous financial year to ensure any targeted concerns are addressed in their latest financial report. Failure to address these individual concerns may mean that a financial report cannot be filed.

Previous financial reports and filing letters are available from the website.

## **Further information**

If you have any further questions relating to the loan, grant and donation disclosure requirements in the statement or the financial report, please contact the ROC on [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au)