

19 July 2019

# Post-election report

TFGA Industrial Association  
Scheduled election  
E2018/277

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# Election(s) Covered in this Report

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Organisation: TFGA Industrial Association  
Election: Scheduled  
Election Decision No/s: E2018/277

## Rules

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Rules used for the election: [002T: Incorporates alterations of 23 January 2019 (D2018/7)] replaces 16 November 2018 version (R2018/176)  
Rules difficult to apply/interpret: None  
Model Rule reference (if any): NA  
For more details see the Model Rules on the AEC website:  
([https://www.aec.gov.au/About\\_AEC/AEC\\_Services/Industrial\\_Elections](https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections))

## Roll of Voters

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As there were no contested offices, no Roll of Voters was required.

## Irregularities

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Details of written allegations of irregularities, and action taken by AEC: *None*

Other irregularities identified, and action taken:

## Other Matters

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Returning Officer actions required (Section 193): No  
Details: None

## Signed

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Benjamin Murray  
Returning Officer  
Australian Electoral Commission  
E: [vicelections@aec.gov.au](mailto:vicelections@aec.gov.au)  
P: 03 9285 7129  
19 July 2019

## Attachments

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- A. Declaration of results for Uncontested Offices – Stage 1
- B. Declaration of Results for Uncontested Offices – Stage 2

# TFGA Industrial Association

## DECLARATION OF RESULTS - E2018/277 - Stage 2 Uncontested Offices

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### Scheduled Election

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 are:

#### President (1)

##### Candidates

RICHARDS Felicity

#### Vice President (1)

##### Candidates

GRUBB Ben

#### Treasurer (1)

##### Candidates

FERGUSSON Melissa

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



Benjamin Murray  
Returning Officer  
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19/07/2019



2 July 2019

Andrew Cameron  
Executive Officer  
TFGA Industrial Association  
Sent via email: andrew@primaryemployers.com.au

Dear Andrew Cameron,

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

The Australian Electoral Commission has provided the Registered Organisations Commission (the ROC) a declaration of results for Stage 1 of the election of uncontested offices in matter E2018/277. This letter is a reminder of certain obligations imposed on organisations and on persons elected to office.

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

The organisation or branch must, as soon as practicable after receiving the post-election report, 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 regulation 141 of the Fair Work (Registered Organisations) Regulations 2009).

#### Holders of office required to undertake approved training

Section 293K of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires 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 are provided for in the RO Act.

#### Organisation must notify the Commission of changes

Also, section 233(2) of the RO Act requires that an organisation must notify the Commission **within 35 days of any changes** to the holders of office in the organisation. **If there are no changes a notification is not required.** If the election has resulted in **any changes** to the holders of office, the TFGA Industrial Association 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. A template notification of changes, which may assist you, is attached. If any change does not apply until a date in the future, you do not 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.

Yours faithfully,

**Christine Hibberd**  
**Registered Organisations Commission**

# TFGA Industrial Association

## DECLARATION OF RESULTS - E2018/277 - Stage 1 Uncontested Offices

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### Scheduled Election

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 are:

#### Executive Committee Member (10)

##### Candidates

DORNAUF Marcus  
ERTLER Richard  
FERGUSON Melissa  
FOSTER L. D. (Ferdie)  
GRUBB Ben  
LAWRENCE Michele  
O'CONNOR Warrick  
RICHARDS Felicity  
TERRY Stephanie

No further nominations accepted.

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



Benjamin Murray  
Returning Officer  
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Email: [vicelections@aec.gov.au](mailto:vicelections@aec.gov.au)  
07/06/2019





## DECISION

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

### TFGA Industrial Association (E2018/277)

MR ENRIGHT

MELBOURNE, 30 APRIL 2019

*Arrangement for conduct of election.*

[1] On 8 April 2019 the TFGA Industrial Association (**the Association**) lodged with the Registered Organisations Commission (**ROC**) prescribed information for an election to fill the following offices:

Executive Committee Member	(10)
President	(1)
Vice President	(1)
Treasurer	(1)

[2] The organisation did not lodge the prescribed information before the prescribed day as required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009* (**RO Regulations**). The prescribed information should have been lodged by 20 February 2019.

### Previous election E2017/273

[3] In its most recent election (**E2017/273**), the Association initially lodged its prescribed information outside of the statutory period and in applying for a later date for lodgement, the Association cited two explanatory reasons: firstly, that it's Executive Officer Andrew Cameron, lodged an Annual Return of Information which he erroneously assumed met the statutory requirements of lodging prescribed information for an election; and secondly, that the Association's President had been unable to authorise the document because of matters external to the Association.

[4] Upon careful review, an extension of time to lodge the prescribed information was granted. It was clearly articulated in the written decision approving the election E2017/273 – that one of the reasons the Association had provided a late lodgement was because of Mr Cameron's erroneous assumption that lodging an Annual Return of Information met the requirements of lodging prescribed information for an election.

## Current election

[5] The prescribed information for the current election matter (**E2018/277**) was endorsed and lodged by the Executive Officer Mr Cameron on 8 April 2019. The ROC advised the Association on 23 April 2019 that the Executive Officer was not an ‘Officer’ as prescribed by section 9 of the *Fair Work (Registered Organisations) Act* 2009 (the **RO Act**) and therefore, the requirement of regulation 138(2) of the **RO Regulations** could not be satisfied. On 23 April 2019 the Association lodged amended prescribed information which was endorsed by the Treasurer, David Byard – an ‘Officer’ as prescribed by section 9 of the RO Act.

[6] For the purposes of the current election matter, correspondence from the Executive Officer Mr Cameron dated 8 April 2019 indicated that the reason for prescribed information being lodged outside of the statutory period was because of an oversight which was based on an assumption that the lodgement of an Annual Return of Information alleviated the Association’s statutory obligation to lodge Prescribed Information under regulation 138(3) of the **RO Regulations**.

[7] It became apparent that Mr Cameron was citing that he had made the same erroneous assumption that the lodgement of an Annual Return of Information alleviated the Association’s statutory obligation to lodge Prescribed Information under the RO Regulations for two consecutive election cycles.

[8] In the previous election (**E2017/273**), it was necessary for the ROC to proactively notify the Association that it was required to lodge Prescribed Information in order to comply with the RO Regulations and that it was required to seek a later date for lodgement.

[9] For the current election, the Association has requested a later date for lodgement of its Prescribed Information and I must consider that application.

## Assessment of application

[10] There is a normal and reasonable expectation that registered organisations take steps to ensure they comply with the time-frame requirements set out not only in the RO Act but also in instruments or references pertaining to its own governance as formulated by the organisation.

[11] I have carefully considered whether the same Executive Officer making the same erroneous assumption in two consecutive election cycles is a sufficient ground to justify a failure to comply with a statutory obligation or as a reason for approving a later date for lodgement of prescribed information. I have also carefully considered the Association’s immediate responses in both election cycles to information and advice provided by the ROC and all of the other relevant circumstances.

[12] The failure to lodge prescribed information before the prescribed day renders the organisation potentially liable, in the event civil proceedings were commenced in the Federal Court, to a civil penalty pursuant to section 189(2) of the Act.

[13] Having carefully balanced the competing issues, I have decided to approve the application for a later date for lodgement of the prescribed information. In doing so, it should be clear to the Association that further extensions of time are unlikely to be granted on the basis of the same erroneous assumptions made in these two election cycles.

**[14]** 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 RO Act. I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

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**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, David Byard, being the Treasurer of the TFGA Industrial Association make the following statement:

1. I am authorised to sign this statement containing prescribed information for TFGA Industrial 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. No rule alterations are pending that will impact the election.
5. This statement **IS NOT** lodged at least 2 months before nominations open for the election(s) in Annexure A. The reason it is lodged after the prescribed time is:
  - a. Upon providing the list of members and copy of rules to the Australian Electoral Office to meet our nine week nomination requirement we were advised of the need for this form. This was an oversight confused with the lodgement of the Annual Return which indicated that elections would be held this year for the positions of President, Vice-President, Treasurer and 10 Committee Members. This was lodged on 4 February, 2019.

Signed:



Dated: 23 April, 2019

**NOTE:** This statement should be lodged with the Registered Organisations Commission at least 2 months prior to nominations opening. It can be submitted to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

## Annexure A

- Elections that are required

Branch	Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
<i>Tasmania</i>	<i>Executive Committee Member</i>	<i>10</i>	<i>DVS</i>	<i>Scheduled</i>	<i>All financial members of TFGA Industrial Association – Rule 30</i>
	<i>President</i>	<i>1</i>	<i>Collegiate</i>	<i>Scheduled</i>	<i>Members of Executive Committee – Rule 31</i>
	<i>Vice President</i>	<i>1</i>	<i>Collegiate</i>	<i>Scheduled</i>	<i>Members of Executive Committee – Rule 31</i>
<i>...</i>	<i>Treasurer</i>	<i>1</i>	<i>Collegiate</i>	<i>Scheduled</i>	<i>Members of Executive Committee – Rule 31</i>

- Important dates:

	Direct Voting System	Collegiate Electoral System
<b>Nominations OPEN</b>	<i>18 April, 2019 (Rule 30)</i>	<i>20 June, 2019</i>
<b>Nominations CLOSE</b>	<i>14 days after nominations open (Rule 30)</i>	<i>20 June, 2019</i>
<b>Roll of Voters cut off date</b>	<i>7 days prior to nominations opening (Rule 30.2)</i>	<i>20 June, 2019</i>

**NOTES:** For insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as 'To be determined by the returning officer'. This also applies where rules are silent as to the nominated dates.

If the nomination dates are 'To be Determined by the Returning Officer', but your organisation has a *preference*, please state 'To be Determined by Returning Officer' and clearly indicate that your nominated date is a preference.

If the P.I. includes a position that is not an office, please refer to our template [Prescribed information for the election of officer and non-officer positions](#).