



QUARTERLY NEWSLETTER

Issue 03 – February 2018

FROM THE COMMISSIONER

Welcome to the Summer 2018 edition of the ROC Quarterly Newsletter.



The ROC continues to engage with registered organisations. An example of this is the information session we are holding in Parramatta next month. The topics were selected on the basis of feedback we received from interested organisations. Registrants will learn a lot about the way the RO Act and the ROC work.

We encourage a culture of collaborative compliance. If you have not registered for this session we plan to hold more of them, but in the meantime I encourage you to contact the ROC's helpful staff for answers to your questions. Significant benefits can be achieved when organisations work co-operatively with the regulator to resolve issues.

I look forward to working with you all during 2018.

Regards

Mark Bielecki
Commissioner
Registered Organisations
Commission

ROC INFORMATION SESSION IN PARRAMATTA

The ROC will be holding an information session on 6 March 2018 at the Parramatta RSL Club in NSW. The session will inform participants about how to comply with various RO Act obligations on both organisations and their office holders. The agenda, based on feedback from stakeholders, will include the launch of an induction kit for new officers of registered organisations, a panel discussion on the corrupting benefits legislation, navigation of ROC resources, financial reporting, ROC inquiries and investigations (including case studies) and the whistleblower scheme.

This session is part of the ROC's commitment to engage with, and educate registered organisations. We anticipate that it will promote open communication about, and voluntary compliance with, regulatory obligations. ROC Executive Director, Chris Enright, said it is far more efficient and cost-effective for everyone concerned if we can collaboratively increase voluntary compliance before serious issues arise. "It's a win-win", Mr Enright said.

FURTHER INFORMATION SESSION IN YOUR AREA?

Would you be interested in attending a future ROC information session in your area? Let us know by completing this [quick six-question poll](#).

REMINDER: ALL ANNUAL RETURNS DUE BY 31 MARCH

The **31 March** deadline for annual return lodgements is already fast approaching. Be prepared by utilising our updated annual return resources:

Annual Returns
<ul style="list-style-type: none">• Template annual return declaration – for organisations WITH branches• Template annual return declaration – for organisations with NO branches• ROC internal checklists for annual return assessments• Webinar – annual return requirements: NOW AVAILABLE!

Webinar on annual return reporting

The ROC has prepared a pre-recorded webinar to assist with preparation of annual returns. A link to the webinar is provided above, and is also available on the [Fact Sheets, Templates and Webinars page](#) of the ROC website.

Want to be informed immediately? [SUBSCRIBE](#) for ROC email updates

SIGNIFICANT PENALTIES FOR INADEQUATE RECORD KEEPING

A recent [Federal Court decision](#) highlighted the importance of maintaining adequate records, as required under the RO Act. Perram J imposed civil penalties on a registered organisation in the sum of \$271 362.36. Of this amount, \$200 000 was imposed for failing to remove 20 097 members from its membership register over a period of 12 years (s.172).

The remaining \$71 362.36 of the penalty was imposed for five separate contraventions in relation to the failure to keep copies of required records for 7 years (s.231(1)).



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ROC WEBSITE

The ROC seeks to ensure that the information on its website and in its publications is both accurate and current and to that end has undertaken a recent review of that information. Nonetheless material may become out of date. If you see something that appears incorrect or outdated, or if you have any other feedback, please advise us by email to regorgs@roc.gov.au.

DELEGATE DECISIONS

The Commissioner's delegate has issued and published 173 appealable decisions since the commencement of the ROC.

Financial year changes

A recent [FWC full bench decision](#) supported the ROC's interpretation of s.240 of the RO Act. This section deals with transitional periods for financial reporting when a reporting unit changes the dates of its financial year.

In a nutshell, the ROC's interpretation of s.240 is:

A financial year that has already commenced will continue for a full 12-month financial year, ending on the former year-end date. The gap period between the old financial year and the new financial year, which will be less than 12 months, will require a separate financial report in accordance with section 240 of the RO Act.

Extension of time for an election

An [FWC full bench decision](#) upheld an appeal and quashed [a decision](#) of the Commissioner's delegate. The decision concerned the timing of a complex election involving insufficient nominations from a prior election, casual vacancies that required elections and casual vacancies that could be elected or appointed.

OTHER UPDATED COMPLIANCE & EDUCATION RESOURCES

Bargaining Representative Disclosures	
•	'Latest update': new disclosure form must be used from 29 January 2018
•	Fact sheet – disclosure requirements for bargaining representatives
Whistleblowers (protected disclosers)	
•	Fact sheet – penalties for reprisals against whistleblowers

THE ROC'S BALANCED COMPLIANCE APPROACH

The ROC appreciates that organisations aim to voluntarily comply with their statutory obligations. In addition to satisfying the law, compliance results in accountability to, and transparency for, members. We also appreciate that unintended errors will occasionally occur. The ROC aims to help organisations remedy their unintended non-compliance. We have adopted a stepped approach for assessments of breaches which takes into account the nature and history of an organisation's compliance. As a guide, you can expect the response set out in the pyramid below:

Possible ROC responses

Must be corrected. ROC will commence compliance review and may consider undertaking an inquiry, investigation or civil penalty proceedings.

Must be corrected and ROC may commence compliance review

Must be corrected

Please ensure future lodgements are corrected

No further action necessary.

Reason for relevant response

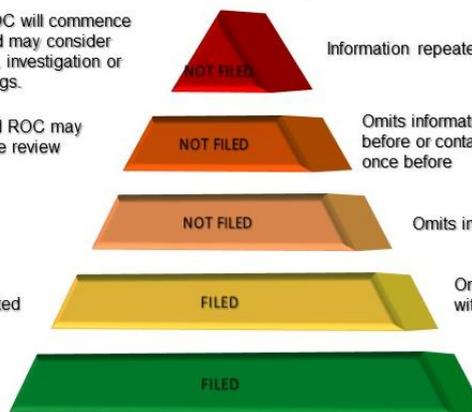
Information repeatedly omitted or repeatedly incorrect

Omits information that has been omitted at least once before or contains errors that have occurred at least once before

Omits information that must be provided

One or more errors do not strictly comply with the legislative requirements.

Assessed as compliant!



Save time - be in the green!

If you're not sure about how to comply, call us on **1300 341 665**. Our experienced staff are available during business hours to help your organisation save valuable time and resources by providing advice prior to lodgement.

What happens if you are in the red category?

When the ROC detects potential non-compliance we aim to help organisations remedy it. Our main focus is to ensure accountability to members. If the ROC is of the view that non-compliance has occurred our first step is always to engage in communication about our concerns and how non-compliance can be remedied. Accordingly, the vast majority of the ROC's inquiries and investigations do not result in litigation. However, litigation may occur if the ROC considers that, in all the circumstances, it is warranted. The ROC aims to take an appropriate and proportionate approach to compliance.