



Australian Government
Registered Organisations Commission

26 September 2018

Mr Paul Richardson
Assistant General Secretary
National Union of Workers
By email: prichardson@nuw.org.au

Dear Mr Richardson

Exemption from financial governance training application for Mr Dario Mujkic – National Union of Workers (NUW) – GT2018/15

I refer to your application for an exemption under section 293M dated 16 August 2018 lodged on behalf of **Mr Dario Mujkic** and the additional information provided on 3 and 24 September 2018.

The *Fair Work (Registered Organisations) Amendment Act 2016 (the Amendment Act)* introduced a range of amendments to the *Fair Work (Registered Organisations) 2009 (the RO Act)*.

Included in the amendments is section 293K of the RO Act, which requires each officer of the organisation whose duties include financial duties that relate to the financial management of the organisation or branch, to undertake approved training that covers each of the officer's financial duties, unless exempted under section 293M.

Section 293M of the RO Act allows the Commissioner to grant an exemption if he is satisfied that the officer has a proper understanding of the officer's financial duties within the organisation or branch due to the officer's:

- a) experience as a company director; or
- b) experience as an officer of a registered organisation; or
- c) other professional qualifications and experience.

The Commissioner has formally delegated to me, as the Executive Director of the Registered Organisations Commission (**ROC**), the relevant powers relating to the exemption of approved training.

You advise that as a result of election E2018/25, Mr Mujkic was elected as the General Vice President and as the Assistant Branch Secretary of the Victorian Branch. He took office on 3 September 2018. If the application for exemption under section 293M is refused, approved training in accordance with section 293K would be required to be completed by **3 March 2019**.

You will be aware that significant changes have recently been introduced into the regulatory scheme relevant to registered organisations including but not limited to the introduction of a much broader whistleblower protection scheme with serious implications for the taking of reprisals and significant increased penalties including possible criminal penalties. There is also an enhanced officer disclosure regime, the introduction of a mandatory auditor registration scheme and the establishment of the ROC.

You may also be aware that each relevant financial training package previously approved by the Fair Work Commission has had to be significantly amended to include all of the relevant amendments to the regulatory scheme including those referred to above.

Assessment

In the particular circumstances of this application, I must be satisfied that Mr Mujkic has a proper understanding of his financial duties within the organisation or branch because of his experience as an officer of a registered organisation or other professional qualifications or experience.

You have submitted that the circumstances which warrant consideration for an exemption under section 293M relate to Mr Mujkic:

- having acquired experience from performing his duties, including financial duties, as the General Vice President between 3 August 2018 and 2 September 2018;
- having acquired experience from performing his duties, including financial duties, as the Assistant Branch Secretary of the Victorian Branch between 1 July 2018 and 2 September 2018;
- having acquired experience from being a Director of Co-operative Power Australia Ltd since 18 April 2018;
- holding a Bachelor of Arts and Bachelor of Laws;
- being a legal practitioner within the meaning of the Legal Profession Uniform Law (Victoria); and
- being a member of the Law Institute of Victoria.

You have also advised that Mr Mujkic:

- undertook and successfully completed approved financial management training on 5 July 2017; and
- undertook and successfully completed further approved training which included the new provisions of the Amendment Act and the *Fair Work Amendment (Corrupting Benefits) Act 2017* on 14 November 2017.

I have taken into account Mr Mujkic's brief experience during his appointment as the General Vice President and the Assistant Branch Secretary of the Victorian Branch and has been elected to the same offices.

I have also taken into account that, among other things, Mr Mjukic has successfully completed approved financial management training on 5 July 2017 and updated his knowledge on the new provisions of the Amendment Act and the *Fair Work Amendment (Corrupting Benefits) Act 2017* on 14 November 2017.

I have considered whether an exemption granted should be subject to any conditions. Taking into account all the material I have before me and all relevant matters, I do not consider any conditions are, in this case, appropriate.

Based on the above information, I am satisfied Mr Mujkic has a proper understanding of his financial duties within the organisation because of his experience, qualifications and the successful completion of the approved training. Accordingly, under section 293M(2) of the RO Act I grant Mr Mujkic an exemption from the requirement to undertake training under section 293K.

Publication of this correspondence

You may be aware that I issued a decision in [GT2018/6] on 28 May 2018 which related to an application for exemption under section 293M of the RO Act made by the Australian Entertainment

Industry Association (AEIA) on behalf of an officer of that registered organisation. The factors which were relied upon in that application were significantly different to the matters relied upon in this application, including in particular that the officer demonstrated limited previous experience in a registered organisation and had not previously participated in any financial governance training approved under the RO Act.

I issued and published a decision in GT2018/6 as one strategy designed to provide education and guidance to potential future applications while the section 293M exemption process develops. The circumstances of this application and reasons for granting the exemption are not as complex and have not required the issuing of the same type of guiding decision.

The ROC however, is committed to transparency and similar to the decision in [GT2018/6] I propose to arrange for the publication of this letter on the ROC's web site under the NUW's name.

Before doing so, I would invite any comment or view the NUW might have about the publication of this letter on the ROC's web site by **3 October 2018**.

If no response is received by the end of business on 3 October 2018, I will assume that the NUW has no objection to the publication of this letter on the ROC's web site.

If you have any questions concerning this matter please contact me on 1300 341 665 or via email at regorgs@roc.gov.au.

Yours faithfully



Chris Enright
Executive Director
Registered Organisations Commission