



Quarterly newsletter

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From the Commissioner

Welcome to the Spring-Summer 2019 edition of our quarterly newsletter.

This is our last newsletter for 2019. The Registered Organisations Commission (ROC) has continued to work hard in 2019 to ensure registered organisations have access to the tools and resources they need to assist them to meet their obligations under the Fair Work (Registered Organisations) Act 2009 (RO Act).

We've delivered face-to-face information workshops this year in Sydney, Melbourne, Adelaide and Canberra with Hobart scheduled for later this month. At the end of 2019 there will have been a ROC workshop held in every capital city in Australia since the ROC commenced in 2017. New resources have been released during 2019, including our new podcast channel.

The ROC has also successfully implemented a new case management system to equip us to better and more quickly meet the extensive and ongoing needs of registered organisations.

We've continued to work with registered organisations as part of our expansive whistleblower work to equip them to achieve, if they decide to, an internal 'speak-up' culture.

Organisations and their branches have this year, for the first time, also been required to lodge officer and related party disclosure statements with the ROC. In the 2018–19 financial year, 92% of organisations and branches lodged their statements within the statutory timeframes. This is in addition to 99% of financial reports and 100% of annual returns of information being lodged within their statutory timeframes over the same period, contributed to by our continued education efforts, regulatory intervention and focus.

Looking toward 2020, we remain focussed on fulfilling our functions and are committed to adding value to organisations and fostering good governance and financial transparency, as well as compliance with the RO Act.

I would like to thank registered organisations and their officers for their compliance efforts in 2019 and wish you all the best for the upcoming festive season.

Mark Bielecki
Registered Organisations Commissioner.





Last chance to register for our Hobart workshop

Places are still available for the ROC's next interactive workshop, to be held in Hobart on 19 November 2019.

This is the first workshop to be delivered in Hobart, and the fifth and final hosted by the ROC in 2019. Workshops are attended by a broad range of stakeholders, including officers, financial specialists and administrators of registered organisations.

The workshop will include recent updates on the governance of registered organisations, and will provide the opportunity to engage with the Commissioner and staff from the ROC representing all of its three teams: education, compliance and finance.

To register your attendance, please complete the [registration form](#) and email to regorgs@roc.gov.au ensuring you nominate on the form, which of the two concurrent sessions you are interested in attending

Further workshops are scheduled for the first half of 2020, as part of the ROC's 2019–20 national education strategy. They will be held in New South Wales in March and Victoria in May 2020 with formats, topics, dates and locations to be advised.



Application form for exemption from officer financial training

Every officer of a registered organisation with financial duties must complete approved training within six months of taking office, under section 293K of the RO Act, unless they hold an exemption.

The Registered Organisations Commissioner may grant an exemption from the requirement for office's with financial management duties to undertake financial training in certain circumstances, under section 293M of the RO Act. The Commissioner may grant the exemption if satisfied the officer has a proper understanding of their financial duties because of either their experience as a company director, their experience as an officer of a registered organisation or other professional qualifications and experience.

After requests by stakeholders, the ROC has published an exemption application form which is now available online. It is designed to streamline the application process and provide greater clarity about the types of information the Commissioner requires in order to consider whether the officer has an understanding of the financial duties of the office they hold. Organisations are strongly encouraged to use [this form](#) when applying for a s. 293M exemption.

Financial returns due soon

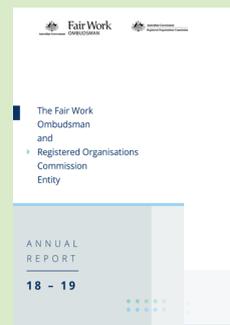
A reminder that for those reporting units with a financial year which ended on 30 June 2019, your financial returns are due shortly with the ROC.

To assist in preparing your statements, we have a range of financial reporting resources available on our website. These include [model financial statements](#), [reporting guidelines](#) and our internal [financial reporting checklists](#).



Annual report and corporate plan

The 2018–19 Fair Work Ombudsman and Registered Organisations Commission Entity annual report was tabled in Parliament on 21 October and is now available [online](#).



The 2019–2020 Fair Work Ombudsman and Registered Organisations Commission Corporate Plan was published on 30 August and sets out the strategic

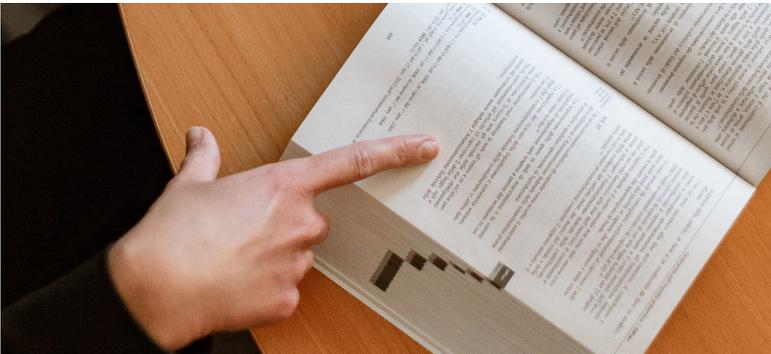
direction of the ROC and the Fairwork Ombudsman for 2019–20 to 2022–23 and is available [here](#).



Spotlight on recent Federal Court decision

On 17 September, the Federal Court made declarations and handed down civil penalties against the Australian Hotels Association (AHA) relating to multiple contraventions of the RO Act and its predecessor legislation.

At a penalty hearing earlier in that month, the AHA admitted 50 contraventions of the RO Act by its Queensland Branch occurring over a period of more than a decade.



The Honourable Justice O'Callaghan made 30 declarations as to contraventions of the RO Act and ordered the AHA to pay civil penalties totalling \$157,250. The amount comprised \$106,500 for the Queensland Branch's failure to lodge prescribed information to enable the conduct of elections for offices on 16 occasions between 2003 and 2016, and \$50,750 for the Queensland Branch's failure to keep accurate records of its officers and lodge timely notifications of changes to its list of officers on 17 occasions between 2005 and 2017.

In handing down his orders, Justice O'Callaghan said that determining factors in the penalty amount included, 'in particular, on the one hand, the need for general deterrence, the length of time over which the contraventions occurred and the seriousness of the election contraventions and, on the other hand, that the AHA admitted the contraventions at an early stage, co-operated with the Commissioner, and put mechanisms in place to ensure that there is no repetition of the conduct.'

Since the time of the contravening conduct engaged in by the AHA, the amount of the penalties that may be available under the RO Act has significantly increased meaning the total penalties if the same conduct were to occur today could be significantly higher.

The judgment and the penalties imposed is an important reminder to all organisations about the need to comply with democratic processes and record keeping obligations set out in the RO Act to ensure organisations and their officers are accountable to their members.

Outcomes and learnings of financial training audit

The ROC has undertaken an audit of compliance with s.293K of the RO Act (the obligation for certain officers to complete financial training).

The voluntary audit process was designed to educate people in registered organisations about the requirements of the legislation and to increase compliance. Where non-compliance has been identified, the ROC has worked with registered organisations to achieve appropriate remediation.

The consultations are continuing, and the ROC is working towards finalising outstanding audits with registered organisations over the coming months. At 24 October 2019, the ROC has finalised almost half of the audits of registered organisations.

Notwithstanding the voluntary nature of the audit, a significant number of registered organisations have chosen to engage with the ROC and participate in consultations for the audit. Of the 52 finalised audits, 44 registered organisations have chosen to participate in the audit process.

The interim data from the completed financial training audits illustrate that a significant percentage of registered organisations have officers who have either completed approved training or obtained an exemption (18), or there are active plans in place to arrange for officers to complete training within the six month legislative timeframe (9). Furthermore, 15 registered organisations whose audit has been finalised have made a commitment to remediate non-compliance.



State vs Federal obligations: what is the difference?

Federally registered organisations are associations of employers or employees that have been formally registered by the Fair Work Commission under the Fair Work (Registered Organisations) Act 2009 (the RO Act). Upon registration under the RO Act, the organisation obtains legal status as a body corporate and each branch of the organisation exists as an integral and inseverable part of the organisation.

Many federally registered organisations have branches under their federal registration which are state-based. For example an organisation might have a Western Australian branch. Sometimes the state-based branch might have a 'mirror' association in the state. A 'mirror' association often has the same members and the same office holders, but is registered in the State. For example a Western Australian State Association would be registered under the Industrial Relations Act 1979 (WA).

An association registered under state legislation obtains legal status under the relevant state jurisdiction as its own body corporate.

They are two separate legal entities, even though they may have common structures, policies and actions. They must report separately to the state and federal regulators as they will have different reporting obligations and the two entities must make sure they are separately capturing and reporting their respective financial affairs (including the relevant assets and liabilities) i.e. the financial report cannot report the financial affairs of both entities and the same financial report cannot be lodged with the state and the federal regulator.

However, if the financial affairs of a branch are encompassed by the associated State body, the branch may be eligible to apply for a certificate from the Registered Organisations Commissioner under s. 269 of the RO Act. This provision allows for a reduction in the reporting requirements and enables the reporting unit to lodge a copy of the associated State body's audited accounts with the ROC.

You can read the relevant section of the RO Act and its requirements [here](#).

Every organisation is different and has its own unique structure. Organisations should obtain their own independent legal advice about their obligations to the state and federal regulators.



Christmas closure

Our offices will be closed from 12:30pm on Tuesday 24 December 2019 and will reopen as usual from Thursday 2 January 2020.

Podcasts

As we reported in the last newsletter, the ROC has launched its new podcast series, 'ROCpod: talking with the Registered Organisations Commission'. New episodes are available on the last Friday of each month.

The monthly podcast series is intended to share essential information, uncover handy hints and tips, speak to guest experts and reveal the best tools for registered organisations to achieve proactive compliance with legislative requirements.

Podcast episodes so far include:

- **Episode 1:** [What to expect from your auditor](#)
- **Episode 2:** [The importance of good governance](#)
- **Episode 3:** [Interview with the Commissioner](#)

Podcasts are available from our [website](#), [Apple Podcasts](#), [Google Podcasts](#), [SoundCloud](#), [Sportify](#) and [YouTube](#).

Upcoming topics include what it means to be an officer of a registered organisation and whistleblowers.

Did you know?

There are now 105 federally registered organisations, instead of 106, as the National Union of Workers (NUW) and United Voice (UV) amalgamated to form the United Workers' Union earlier this week.

United Voice has been registered since 10 November 1916, originally as the Federated Miscellaneous Workers Union of Australia. The National Union of Workers has been registered since 1 October 1912, originally as the Federated Storemen and Packers Union of Australia.

The new union will represent 150,000 members from more than 45 industries.

