



Australian Government

Registered Organisations Commission

ROC lodges appeal in matter of Australian Workers' Union v Registered Organisations Commissioner

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16 December 2019

The Registered Organisations Commissioner has today lodged a notice of appeal against the judgment in the matter of The Australian Workers' Union v Registered Organisations Commissioner (No. 9) [\[2019\] FCA 1671](#).

The judgment related to proceedings commenced by the AWU, which sought to prevent the ROC from continuing an investigation into a range of donations made by the AWU that may not have been properly authorised in accordance with the AWU's rules.

The majority of the trial concerned the AWU's allegation that the ROC's investigation was politically motivated, which was comprehensively rejected by the trial judge.

However, the trial judge found in favour of the AWU on a ground which relied upon the statutory interpretation of section 320 of the Fair Work (Registered Organisations) Act 2009. Section 320 is a deeming provision which provides that, on the expiration of four years from doing certain acts in contravention of the rules of an organisation, those acts are deemed to have been done in compliance with the rules.

On the basis of his findings on 26 November 2019 the trial judge made consequential orders quashing the ROC's investigation. The ROC is appealing that order.

The grounds of appeal challenge the findings made as to the scope of the investigation, the way in which section 320 operates, and the statutory

threshold for an investigation.

Under the existing orders of the Court, documents seized by the Australian Federal Police following the execution of search warrants on the premises of the AWU on 24 October 2017 will remain in the custody of the AFP pending the outcome of the appeal.

The ROC has requested that the appeal be heard at the earliest available time.

The ROC will make no further comment at this time.

Access the [notice of appeal here](#).

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