



Australian Government

Registered Organisations Commission

Summaries of court cases

What can registered organisations and their officers learn from cases that have been brought before the Federal and other courts?

There have been important decisions made by the courts relating to the duties of officers, financial governance, accountability and the necessity of conducting elections to ensure democratic control of organisations by their members.



[‘Dysfunctional’ structure leads to 86 breaches of the RO Act](#)

**Registered Organisations Commissioner v
Communications, Electronic, Energy, Information,
Postal, Plumbing and Allied Services Union of Australia
[2020] FCA 96**

An organisation was found to have had a dysfunctional organisational structure which contributed to contraventions of the Fair Work (Registered Organisations) Act 2009 (the RO Act) relating to the failure to keep accurate records of offices and office holders, and failures to notify the regulator about changes to this information.

Although the organisation subsequently put systems in place to ensure it achieved higher levels of compliance, it was penalised \$445,000 for its widespread contraventions over a considerable period of time.

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[Branch secretary should set an exemplary standard of behaviour](#)

Registered Organisations Commissioner v Australian Workers' Union & Mr Melhem [2019] FCA 1852

A branch of an organisation received money from employers, which it improperly accounted for as membership fees, and entered into the register of members the names of people who had not applied to join the organisation.

The former Branch Secretary was found to have failed to act in good faith in the best interests of the organisation and failed to have exercised his powers and duties with the care and diligence that a reasonable person would.

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[Organisations must hold elections and maintain up-to-date lists of office holders](#)

Registered Organisations Commission v Australian Hotels Association [2019] FCA 1516

A branch of an organisation failed to arrange for elections over an extended period of time. It also failed to update its list of office holders and notify the regulator of changes to this list. The length of time when the contraventions occurred and the seriousness of the election contraventions were important considerations when determining the penalty imposed on the organisation.

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Both organisation and Branch Secretary responsible for branch's financial reports

Registered Organisations Commissioner v Australian Nursing Midwifery Federation [2018] FCA 1735

and

Registered Organisations Commissioner v Australian Nursing Midwifery Federation (No 2) [2018] FCA 2004

An organisation was found to have breached the Fair Work (Registered Organisations) Act 2009 (the RO Act) when one of its branches failed to prepare, circulate and present its financial reports.

The branch's Secretary was also found to have breached his duties of care and diligence as an officer because of his failures to ensure the branch prepared financial reports in a timely way.

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