



## Exemption from financial reporting obligations under Part 3 of Chapter 8

### Section 271 of the *Fair Work (Registered Organisations) Act 2009 (RO Act)*

Reporting units with no financial affairs in any given financial year can apply for a certificate under s.271 of the RO Act which exempts them from the requirements of Part 3 of Chapter 8 of the RO Act.

Part 3 of Chapter 8 sets out the requirements relating to:

- financial records
- accounting
- auditing.



A **reporting unit** is defined under s.242 of the RO Act as:

- the whole of the organisation, where the organisation is not divided into branches, or
- each branch, where an organisation is divided into branches

unless a certificate issued under s.245 by the General Manager of the Fair Work Commission states that the organisation is divided into reporting units on an alternative basis.

### Who is eligible for a s.271 certificate?

To be eligible for a s.271 certificate, the Registered Organisations Commissioner (**the Commissioner**) must be satisfied that the reporting unit has not had any financial affairs in a financial year.

The Commissioner will consider the following:

- whether the reporting unit spends money or incurs debt to conduct its activities
- whether another reporting unit of the organisation spends its own money or incurs debt so that the reporting unit may conduct its activities
- whether any person or body corporate or trust spends its own money or incurs debt so that the reporting unit may conduct its activities.<sup>1</sup>

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<sup>1</sup> r 165, *Fair Work (Registered Organisations) Regulations 2009*



## Applying for a certificate under s.271 of the RO Act

Applications for a s.271 certificate are lodged with the ROC by email ([regorgs@roc.gov.au](mailto:regorgs@roc.gov.au)) using the [application form](#).



### There is a timeframe for lodging an application

Applications must be made to the Commissioner within 90 days after the end of the financial year.

## Factors to consider when making an application

### Rules of the reporting unit

Do the rules of the organisation require the reporting unit to engage in financial activities, e.g. collecting membership subscriptions or paying a capitation fee? This may indicate that the reporting unit has financial affairs and further information may need to be provided to the Commissioner to demonstrate this has not happened.



**Remember:** if another reporting unit/person/body corporate/trust undertakes financial activities on your behalf, make sure that your rules allow for this to occur.

### Credit cards

Has an officer of the reporting unit been issued with a corporate credit card? If an officer of a reporting unit has a corporate credit card and has used it to undertake transactions on behalf of and for the reporting unit this may indicate that the reporting unit has financial affairs.

### Bank accounts

If the reporting unit maintains a bank account or holds money in cash, you should consider whether financial transactions have occurred and the impact of these financial instruments on the reporting unit's application.

### Other considerations

Other questions to consider include:

- did the reporting unit receive any revenue?
- did the reporting unit expend any money?
- did the reporting unit incur any liabilities?
- does the reporting unit have any employees that it has directly employed?

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This fact sheet is not intended to be comprehensive. It is designed to assist in gaining an understanding of the relevant provisions of the *Fair Work (Registered Organisations) Act 2009*, and the Registered Organisations Commission and its work. The Registered Organisation Commission does not provide legal advice.