



Quarterly newsletter

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Message from the Registered Organisations Commissioner

The COVID-19 pandemic is an extraordinary global event that is presenting significant challenges for registered organisations, their branches and their members. The ROC is committed to working constructively and pragmatically with the organisations we regulate, mindful that they are likely to encounter difficulties in complying with their regulatory obligations due to the impact of COVID-19. The ROC remains open and is available to help organisations who might benefit from advice, guidance or assistance with their compliance obligations.

During the pandemic, we have been regularly communicating directly to our subscriber list (currently more than 1,000) as well as informally reaching out to senior officers in a range of employee and employer associations to see how things are going from a regulatory perspective to inquire whether the ROC could be doing anything (or doing anything differently) to assist. We have particularly been trying to better understand any barriers, hurdles or problematic regulatory issues our stakeholders are experiencing. As a result of the pandemic we have postponed both our Sydney and Melbourne interactive workshops and directly as a result of the feedback we have received during the pandemic, we have focused on how we can assist with issues such as:

- conducting elections, holding meetings, including AGMs
- accessing governance training
- preparing and lodging financial reports, annual returns of information, officer and related party disclosure statements or loans grants and donations statements
- auditing; or
- notifying the ROC of changes to the organisation.

We have produced guidance materials – which will be mentioned throughout this newsletter – to assist organisations to overcome some of these issues. As the situation is constantly changing, we are providing information as the situation evolves. The COVID-19 section of our [website](#) is being kept up-to-date and I encourage you to look at it regularly.

ROC staff are taking all necessary and reasonable precautions to minimise the spread of COVID-19. This means our offices are closed to the public until further notice, and we are also presently unable to conduct on-site visits to provide organisations with advice face-to-face.

However, the ROC's assistance service remains open between 9.00am and 5.00pm AEST, Monday to Friday. We can provide assistance via email at regorgs@roc.gov.au or by telephone on **1300 341 665**.

Mark Bielecki
Registered Organisations Commissioner



Accessing financial governance training during the COVID-19 pandemic

An issue the ROC has seen emerging over recent weeks is challenges faced by officers with financial duties in attending approved face-to-face financial training within six months of taking office, as required by the Fair Work (Registered Organisations) Act 2009 (the RO Act).

We've received a number of enquiries from organisations having difficulties arranging this training for their officers a result of barriers posed by social distancing and travel restrictions.

In light of the unprecedented pandemic, the ROC believes approved financial training can be completed using video conferencing technology provided the training meets the requirements set out in the RO Act in substantially the same way as face-to-face training.

Prior to the pandemic occurring we had been working with the Australian Council of Trade Unions (ACTU) towards the development of an online governance training package. We made it our urgent priority to review and approved this in March.

Additionally, we have approved an online governance training course provided by Weston, Woodley and Robertson. There is also an online training package for employer organisations provided by the Australian Hotels Association, Western Australian branch. Details of all approved financial training courses are [here](#).

The ROC has written to approved financial governance training providers to consider applying to the ROC for approval to deliver their training packages via alternative technology, such as video conferencing.

Any providers who apply for and have been approved to deliver financial governance training packages via alternative technology will be published on our website.

Holding meetings using appropriate technology during the pandemic

Government restrictions on gatherings may affect the ability of organisations and their branches to hold committee of management meetings, annual general meetings and other general meetings of members.

This issue is important when there are particular decisions or actions that can only be taken with the approval of a meeting of a particular body within the organisation.

Organisations must comply with relevant State or Commonwealth government restrictions in relation to holding in-person gatherings as well as any other social distancing measures.

It's the ROC's view that during the pandemic, attendees of meetings may be present or participate using technology – so long as the technology enables social interaction and what is called a 'meeting of the minds'. For example, a video conference, phone conference or livestream is likely to meet this criteria whereas a series of emails may not.

The ROC therefore advises that it supports the holding of meetings using appropriate technology, unless the rules of your organisation prohibit it.

The use of technology to hold meetings needs to provide members with a reasonable opportunity to participate in the meeting. This includes:

- members being able to participate in debate and ask questions, for example, of the auditor and about the management of the organisation
- the ability to give their views and move amendments; and
- voting (and the recording of votes) being done in such a way as to ensure results are accurate, for example electronically rather than by a show of hands.

Organisations should make an assessment of their meeting-related technologies in advance of holding the meeting and consider whether it adequately addresses these conditions.

The ROC has published a guidance note to assist organisations with this issue, [available here](#).



Conducting elections in organisations and branches during COVID-19

During the COVID-19 pandemic, organisations and their branches already in the process of conducting an election, or due to hold an election at this time, are likely to be affected by revised timeframes. The Australian Electoral Commission (AEC) has written to registered organisations advising that in light of the COVID-19 pandemic, it will:

- reset timetables for elections where ballots are currently underway (by extending the time for the ballot)
- put on hold all elections that it has not yet commenced, and
- review the situation towards the end of June.

Where an organisation or branch considers that an election is necessary for it to continue functioning, the ROC will work cooperatively with the organisation and the AEC to assist in resolving the issue.

During the current COVID-19 pandemic, it is highly likely that elections for officers of some organisations will not be held in accordance with the time-lines set out in their rules.

It may eventuate that office holders have been elected to hold an office for a specific term which has expired, but an election cannot be held. There is a legal doctrine of 'holding over' which means that, in most cases, a person remains in office until their removal or resignation or until another person is subsequently elected to that office (even if their term has expired).

However, if the rules of an organisation state that the person must vacate their office at the end of their term, then this overrides the doctrine of holding over. In these cases, the office will be vacant until an election is held, so it is important to consider the impact of this vacancy on the ability of the organisation to function efficiently. The ROC is aware that some organisations have rules which require an office to be vacated at the expiry of its term.

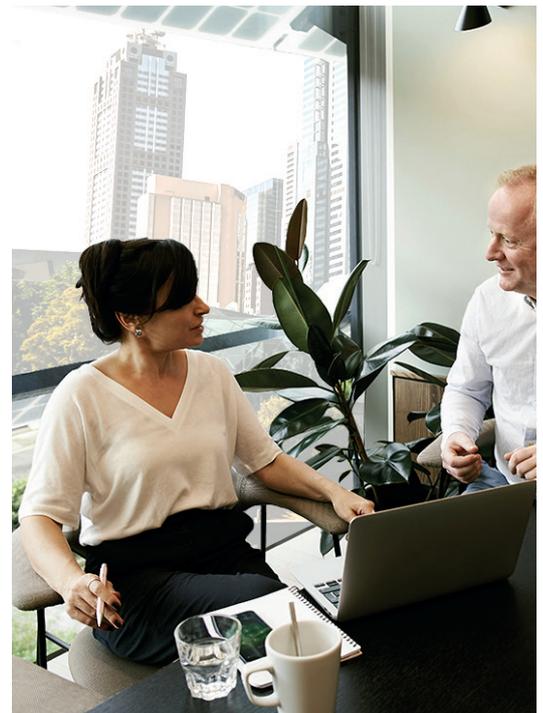
If your organisation's rules require the vacating of one of your critical offices at the expiration of its term, we would encourage engagement with the ROC to assist with an assessment of any potential impact in the short term.

We've produced a [guidance note](#) on this issue, as well as an [e-learning module](#) to help you decide whether an office becomes vacant and whether the office is critical to the functioning of the organisation.

ROC staff helping out in bushfires, pandemic

A ROC staff member who is a member of the Victoria State Emergency Service spent several weeks assisting with the bushfire crisis in the state from December to February, on three different deployments. The ROC, like other Commonwealth agencies, provides paid volunteer leave for employees who assist in emergency situations such as fires and floods, to help keep the community safe.

Several ROC employees are currently redeployed to assist the Fair Work Ombudsman with a large number of calls being received from employers and employees who have been affected by the COVID-19 pandemic.





Importance of record keeping if organisations experience issues

Good record keeping is a cornerstone of good governance. Organisations and their branches should always have sound record keeping processes in place. This is particularly important at the moment as the COVID-19 pandemic might pose challenges for some organisations in complying with their obligations under the RO Act.

The ROC recommends that organisations and their branches ensure they keep a record of how they have attempted to meet their compliance and rules obligations, especially if they have not been able to meet them.

It is also important that organisations and their branches keep minutes and other records that explain the decisions made at this time.



For example, if you're experiencing issues in lodging a document by the due date, make a note that explains what you tried to do or why you were unable to do it. Another example is if you haven't been able to hold a meeting or AGM as a result of physical distancing restrictions. You should also record reasons for other decisions, such as how you decided whether an officer continues to hold office after their term expired and whether the office is vacant whether the office is critical to the running of the organisation.

The ROC encourages organisations and their branches to make comprehensive notes that outline the reasons for these types of decisions.

If you are experiencing issues or difficulties, we encourage you to get in touch with the ROC to discuss this with us.

What do organisations need to know about audits at this time?

COVID-19 restrictions might make it difficult for audits to be conducted in the usual way. This may require consideration as to how organisations provide audit evidence, and auditors may need to make modifications to the way they approach audits. For example, some things that normally occur during the audit such as attending offices or meetings in person may need to be changed.

The ROC encourages all registered auditors to review resources on the ASIC website or from the Australian Auditing and Assurance Standards Board.

Accounting professional bodies such as CPA Australia or Chartered Accountants Australia and New Zealand have also released useful and detailed guidance material relating to auditing functions during COVID-19. These resources are equally applicable to auditing registered organisations and may help auditors during this time.





Spotlight on our tools: e-learning module

The ROC has launched an e-learning module to assist organisations who may have an election due during the COVID-19 pandemic.

The short module will help participants to understand how a vacant office can impact the governance of a registered organisation and provides guidance in circumstances where a critical office is vacant. We have also included some examples, which address some of the questions we have recently responded to. The module will take users approximately twenty minutes, and is designed to provide solutions during this extraordinary time.

The ROC had planned to release an e-learning module in April about notifications of change. However, in order to respond to the emerging concerns and issues of our stakeholders, we have changed our release schedule. This module will be released in coming months, and will include interactive information about compliance obligations and an interactive quiz component.

The ROC's e-learning module can be found [here](#).



Podcasts

Don't miss the most recent episodes in our monthly podcast series, 'ROCpod: talking with the Registered Organisations Commission'.

- [Episode 7: Demystifying the ORP statement](#)
- [Episode 8: How the ROC regulates](#)
- [Episode 9: Help for organisations during the COVID-19 pandemic](#)

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

Did you know? The ROC might be three but some of its functions have been around for 115 years!

On May 1 2020 the ROC reached its third anniversary. However many of its functions have been around for a lot longer than that. After the enactment of the Conciliation and Arbitration Act 1904, the Principal Registry was established in Melbourne and district registries in the other state capitals.

The first Registrar, G H Castle, was appointed in January 1905 (he was also the Registrar of the High Court and the Chief Clerk of the Attorney-General's Department).

The functions of the Registrar included, among other things, keeping a register of organisations registered by the Commonwealth Court of Conciliation and Arbitration. In its first five years the Court had registered 61 organisations. These functions are now performed by the Fair Work Commission.

The 1905 regulations required organisations to lodge with the Registrar the number of members, the list of officers and changes to holders of office! Income and expenditure statements and balance sheets also had to be lodged.

