



DECISION

Fair Work (Registered Organisations) Act 2009
s.159—Alteration of other rules of organisation

Victorian Farmers Federation Industrial Association (R2019/108)

MURRAY FURLONG

MELBOURNE, 21 NOVEMBER 2019

Alteration of other rules of organisation.

[1] On 16 August 2019 the Victorian Farmers Federation Industrial Association (the Association) lodged with the Fair Work Commission (the Commission) a notice and declaration setting out particulars of alterations to the its rules. On 3 October 2019 further submissions in support of the application were provided.

[2] On the information contained in the notice and further submissions, I am satisfied the alterations have been made under the rules of the organisation.

[3] The particulars set out alterations to Rules

- 6 – Powers
- 7 – Definitions and interpretations
- 14 – Membership retirement
- 15 – Membership termination
- 19 – Membership subscriptions
- 22 – Unfinancial members
- 25 – Eligibility for office
- 26 – President, Vice President and Treasurer
- 27 – Executive Committee – composition
- 28 – Electoral procedure
- 29 – Election of Office Bearers
- 31 – General meetings of the Association
- 32 – Finance
- 34 – Costs and penalties incurred by Members
- 39 – Dissolution of Association, and
- 40 – Alteration to Rules – procedures.

[4] The particulars also delete Rules

- 25A – Disclosure of Officers relevant remuneration and non cash benefits
- 25B – Disclosure of Officer’s material personal interest, and
- 25C – Disclosure by Association of payments.

[5] The alteration to Rule 6 updates a reference to the Commission from a reference to its predecessor, Fair Work Australia.

[6] The alterations to Rules 7, 14, 15, 19, 22, 25, 27, 28, 29, 32, 34, and 39 update gendered references to include the feminine gender as well as the masculine.

[7] In addition to including feminine gender references the alterations to Rule 22 also change the reference 'Executive Officer' to 'President'.

[8] There are two aspects to the alterations to Rule 26. The first changes the term of office for the President, Vice President and Treasurer from one to two years. The new electoral cycle is to take effect from the 2020 election.

[9] The second aspect of the alterations to Rule 26 is a product of the transition from an annual to a biennial electoral cycle. Particularly, the alterations ensure that the rules align with the requirements section 146 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

[10] Sub-rule 26.2.1 deals with how casual vacancies which occur within the first six months of a term of office are filled for the President, Vice-President and Treasurer.

[11] Sub-rule 26.2.2 through 26.2.4 deal with casual vacancies occurring within the last eighteen months of the term of office of the President, Vice-President and Treasurer, respectively.

[12] The wording of 26.2.3 is not perfectly clear. However, read in the context of the rule as a whole it appears that it is intended to be read down subject to 26.2.1, and therefore relates to the last eighteen months of the President's term of office. I recommend the organisation consider further alterations to this sub-rule in due course in order to make the intended operation of the rule abundantly clear to members.

[13] In addition to updating gendered terms, the alterations to Rule 27 reference the new biennial electoral cycle, which extends to the whole Executive Committee. Further, these alterations clarify the way in which the President, Vice President and Treasurer are to be elected and when they take up office. Also, the alterations to Rule 27 amend references to outdated provisions around approved training to reflect current legislation.

[14] Rule 28 has been amended to reflect the new two-year electoral cycle. Gendered terms are updated to include the feminine as well as masculine gender and changes references to 'Executive Officer' to 'President'. A typographical error is also corrected, and a legislative reference has been updated to reflect current legislation. Also, in this rule, requirements for candidate statements are changed from including the name, age and address of the candidate to including only their name and geographic location.

[15] In addition to updating gendered terms, the alterations to Rule 29 reflect the two-year electoral cycle.

[16] The alterations to Rule 31 update gendered terms and reduce the quorum of General Meetings from thirty members (of whom ten are present other than by proxy) to fifteen members (with at least eight of the fifteen being present other than by proxy).

[17] The alterations to Rule 40 update references of ‘Industrial Registrar’ to references to the General Manager of the Commission.

[18] On 14 November 2019 Robin Gulline, President of the Association, gave consent, under subsection 159(2) of the *Fair Work (Registered Organisations) Act 2009*, for the Delegate to make various amendments to the alterations for the purpose of correcting typographical, clerical or formal errors. Accordingly, the following corrections have been made:

- In proposed rule 25.2.2 the word ‘of’ immediately following ‘or compromises with its’ has been changed to ‘or’.
- In proposed rule 27.4 the word ‘meeting’ within the first reference to an Annual General Meeting has been capitalised, and the word ‘who’ has been inserted immediately following the words ‘the President, Vice President and Treasurer within the second paragraph.
- In proposed rule 28.5.1 the word ‘than’ in the second sentence between ‘himself or herself’ and ‘no nomination’ has been changed to ‘that’.
- In proposed rules 28.8.1 and 28.8.3 legislative references have been amended to read ‘*Fair Work (Registered Organisations) Regulations 2009*’.

[19] In my opinion, the alterations comply with and are not contrary to the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, modern awards and enterprise agreements, and are not otherwise contrary to law. I certify accordingly under subsection 159(1) of the *Fair Work (Registered Organisations) Act 2009*.



DELEGATE OF THE GENERAL MANAGER