



10 July 2023

Richard Deery  
President, Queensland Branch  
Australia Hotels Association  
By email: [info@gha.org.au](mailto:info@gha.org.au)

Cc: Bernie Hogan, Chief Executive  
[bhogan@gha.org.au](mailto:bhogan@gha.org.au)

Dear Mr Deery

**E2023/126 – Prescribed information submitted for Scheduled Election of Officers and Representatives on the General Committees, Northern and Southern Zone**

On 26 June 2023, the Queensland Branch (**the Branch**) of the Australian Hotels Association (**AHA**) lodged prescribed information with the Fair Work Commission (**the Commission**) under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009* (**the RO Act**) in relation to an election (matter **E2023/126**).

The prescribed information concerned an election for the Northern and Southern Zone General Committees Representatives (stage 1) and Officers (stage 2), which the relevant Branch rules specify is required to be conducted each year.

On 30 June 2023, there was a telephone discussion between Commission and Branch staff about whether or not with election E2023/126 needed to proceed when the previous election for these offices (E2022/180) had only concluded 18 days prior to the prescribed information being lodged.

On 3 and 7 July 2023, the Branch submitted correspondence requesting that election E2023/126 be 'cancelled' (i.e. not proceed) for various reasons which are set out in this letter.

**Previous scheduled election E2022/180**

The conduct of the previous election for these offices (E2022/180) was delayed. The election decision was issued by the Registered Organisations Commission<sup>1</sup> on 12 October 2022. The

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<sup>1</sup> The regulator of registered organisation elections before 6 March 2023.

Australian Electoral Commission (**AEC**) commenced the election on 31 January 2023, and concluded stage 1 of the election on 10 March 2023; stage 2 of that election was declared on 8 June 2023.

### **Rules require prescribed information to be lodged**

Section 189 of the RO Act requires that an organisation or branch must lodge prescribed information if the rules of the organisation require an election to be held.

Rule 50(e) of the Branch Rules requires that nominations for these offices open at least 14 days before 1 October in each year. Sections 189 of the RO Act requires prescribed information to be lodged at least two months before the date that the rules specify for opening of nominations.

According to the Branch rules and the RO Act, the last possible date to lodge prescribed information is 31 July 2023 assuming a 1 October 2023 nomination opening date.

By lodging prescribed information for matter E2023/126 on 26 June 2023, the Branch has complied with the legislative requirements under subsection 189(1) of the RO Act.

### **Branch's request that election E2023/126 not proceed**

Although the Branch lodged prescribed information in order to comply with subsection 189(1), the Branch has also requested that the election not proceed for the following reasons:

1. The previous scheduled election for these offices was only completed on 10 March 2023 (stage 1) and 8 June 2023 (stage 2) respectively. If election E2023/126 was to proceed, those officers elected in E2022/180 would likely only serve a very short term of office (even where the full term is only a year).
2. The 2023 scheduled election for the State Board Delegates is also due under the Branch rules. Prescribed information for the State Board Delegates election **E2023/114** was lodged with the Commission on 19 June 2023. The electorate for election E2023/114 includes the Representatives from the Northern Zone and Southern Zone General Committees. The Branch is concerned that proceeding with election E2023/126 would cause flow-on delays to the State Board election.
3. Not proceeding with election E2023/126 would ensure that subsequent and future elections for the Representatives on the Northern Zone and Southern Zone General Committees and for State Board Delegates realign in 2024.

### **Assessment of the request**

After considering the Branch rules and the very recent election of the current office-holders, I agree that the issuing of a decision for a fresh election would likely have the effect of significantly cutting short the term of office and potentially cause difficulty with the synchronisation of Branch elections.

I have considered the totality of the Branch rules requiring nominations to commence before 1 October each year, that these are annual election indicating that a full term of office is approximately 12 months, and that the Branch has a 'holding over' rule which gives some scope for the term of office to extend slightly beyond 12 months.

Branch rule 51(c) provides that ' All members shall hold office until their successors are declared elected...' This rule therefore allows the incumbent officers on the Zone General Committees to continue to hold office until the new officers are elected at the next scheduled election.

I have also considered the objects of the RO Act – to encourage members to participate in the affairs of the organisation,<sup>2</sup> and to provide for the democratic functioning and control of the organisation.<sup>3</sup>

The 'holding over' provision would allow for the officers (only recently elected) to hold office until the next scheduled election is conducted in 2024 – with members having just recently had the opportunity to exercise their democratic control over these offices.

Therefore, while I acknowledge that the Branch has complied with its obligation to lodge prescribed information, the conduct of another election for these roles in 2023 not required and the current officers can hold over in office until the 2024 election for the reasons I have set out above.

This Commission will advise the AEC accordingly.

Yours sincerely



**Bill Steenson**  
**Director, Compliance and Protected Disclosures**  
**Fair Work Commission**

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<sup>2</sup> Section 5(3)(b) of the RO Act.

<sup>3</sup> Section 5(3)(d) of the RO Act.