



Certain persons disqualified from holding office in organisations

Chapter 7, Part 4 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) imposes limitations on persons who hold or wish to hold an office of an organisation.

Who is disqualified from holding office?

Section 215(1) of the RO Act bars a person convicted of a prescribed offence from standing for election, or being elected or appointed to an office in an organisation.

What is a prescribed offence?

Prescribed offences include:

- an offence under a law of the Commonwealth, a state, or territory, or another country which involves fraud or dishonesty and is punishable on conviction by imprisonment for a period of three months or more
- failing to provide information to the Australian Electoral Commission (AEC) in relation to a proposed amalgamation
- various offences relating to interference with ballot papers
- threatening an objector to an election exemption application
- failing to supply the register of members to the returning officer who is conducting an election for office
- failing to comply with a direction given by the AEC during an election for office
- hindering, obstructing or interfering with an electoral official or the election process
- failing to ensure ballot papers relating to elections are preserved for at least a year
- hindering or obstructing the Registered Organisations Commissioner (the Commissioner) in connection with the provision or inspection of election documents
- recklessly or intentionally failing to act in good faith in the best interests of the organisation
- using their position with the intention of gaining an advantage or being reckless as to whether using their position will gain an advantage
- obtaining and using information dishonestly with the intention of gaining an advantage or being reckless as to whether it will gain an advantage



- various offences in relation to the formation, registration or management of an association or organisation (but only for indictable offences)
- any other offence under a law of the Commonwealth, a state or territory, or another country, involving:
 - the intentional use of violence towards another person
 - intentionally causing of death or injury to another person or intentional damage or
 - destruction of property

and was sentenced to a term of imprisonment that they served, are serving or received a suspended sentence.

What if a person convicted of a prescribed offence nominates for office?

The Commissioner is able to apply to the Federal Court for a declaration that a person is not eligible to be a candidate for election or be elected to office.

An organisation or a member of an organisation may also apply to the Federal Court for such a declaration.

What if a person convicted of a prescribed offence currently holds office?

If a person who currently holds office is convicted of a prescribed offence, that person will cease to hold the office 28 days after their conviction.

Are there any exceptions to disqualification from office for persons convicted of a prescribed offence?

These disqualification provisions are subject to exceptions on application to the Federal Court by a prospective candidate for office or office holder.

A person convicted of an offence is excluded from holding office for five years

Unless otherwise specified by the Federal Court, the exclusion period for a person who has been convicted of a prescribed offence is five years beginning on the latest of the following days:

- the day on which the person was convicted of the prescribed offence
- if the person was sentenced to a term of imprisonment for the offence but the sentence was suspended and the person is not imprisoned for the offence during the suspension period – the day immediately after the end of the period
- if the person serves a term of imprisonment for the offence – the day on which the person is released from prison.



Further information

If you require further assistance regarding the information in this fact sheet please contact the ROC at regorgs@roc.gov.au or call us on **1300 341 665**.

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