



Australian Government
Registered Organisations Commission

26 February 2019

Mr Colin Fenney
State President
Construction, Forestry, Maritime, Mining and Energy Union-South Australian Branch

By email: cfenney@cfmeu.org
CC: hpatel@cfmeu.org

Dear Mr Fenney,

Section 271 application for certificate of exemption from the requirements of Part 3 of Chapter 8 of the Fair Work (Registered Organisations) Act 2009 (the Act) (FR2018/300)

I refer to the application lodged pursuant to section 271(1) of the Act by the Construction, Forestry, Maritime, Mining and Energy Union – South Australian Branch (**the reporting unit**) for the financial year ended 31 December 2018. The application was lodged with the Registered Organisations Commission (**ROC**) on 11 February 2019. I also acknowledge the receipt of the amended application which was lodged with the ROC on 22 February 2019.

The application has been granted. The certificate is attached.

If you wish to discuss this matter, please contact Kylie Ngo on (03) 9603 0764 or by email at Kylie.Ngo@roc.gov.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'CE', with a small horizontal line to the right.

Chris Enright
Executive Director
Registered Organisations Commission



CERTIFICATE

Fair Work (Registered Organisations) Act 2009

s.271—Certificate of exemption from requirements of Chapter 8, Part 3

Construction, Forestry, Maritime, Mining and Energy Union-South Australian Branch
(FR2018/300)

MR ENRIGHT

MELBOURNE, 26 FEBRUARY 2019

*Certificate of exemption from the requirements of Part 3 of Chapter 8 of the Fair Work
(Registered Organisations) Act 2009*

[1] On 11 February 2019 an application was made under s.271(1) of the *Fair Work (Registered Organisations) Act 2009* by Construction, Forestry, Maritime, Mining and Energy Union-South Australian Branch for a certificate of exemption in respect of the financial year ended .

[2] I am satisfied that the reporting unit did not have any financial affairs in respect of the financial year ended 31 December 2018.



DELEGATE OF THE COMMISSIONER

CFMEU

SOUTH AUSTRALIA

Mr Mark Bielecki
Commissioner
Registered Organisations Commission
GPO Box 2983
Melbourne Vic 3001

21st February 2019

Email: regorgs@roc.gov.au

Dear Commissioner,

**Re: *Fair Work (Registered Organisations) Act 2009*
Application for Certificate of Exemption**

I am State President of the Construction, Forestry, Maritime, Mining and Energy Union South Australian Branch (CFMEU) and occupied that position for the financial year ending 31st December 2018 (the financial year).

Pursuant to s271 of the *Fair Work (Registered Organisations) Act 2009 (The Act)*, and in accordance with Rule 28 of the CFMEU Rules, I hereby apply for a certificate of exemption for the Branch in respect of the 2018 financial year.

In support of this application, I submit as follows:

1. The CFMEU consists of a number of Divisions. There are a number of Divisional, (or in case of the Mining & Energy Division, District Branches) within these Divisions.
2. Such Divisional (or District) Branches function within a designated geographical area, in most cases being the State or Territory in which they are established.
3. The CFMEU and each Division and Divisional (or District) Branch thereof submit annual financial returns in accordance with chapter 8 of the Act.
4. CFMEU State Branches, including the South Australian Branch, consist of the members and officers of each Divisional (or District) Branch in each State or Territory.
5. The Branch has not had an account with a bank or any other financial institution nor has it had custody of any real property or monies during the financial year.

CFMEU SA Branch
Level 1, 32 South Terrace
Adelaide 5000

6. The Branch had no reason to keep accounting records and did not have any financial affairs during the financial year.
7. The Branch has not traded or carried out financial transactions of any kind and has not expended economic resources or incurred any financial obligations to conduct its activities during the financial year.
8. The various Divisional/District Branches within the State of South Australia expend their own economic resources and incur financial obligations so that the Branch may conduct its activities.
9. No person or body corporate or trust expends its own economic resources or incurs financial obligations so that the Branch may conduct its activities.
10. Notwithstanding the above, the Branch has functioned in accordance with the rules of the CFMEU including the rules relating to Branches.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Colin Fenney', written in a cursive style.

Colin Fenney
State President
CFMEU South Australian Branch



21 January 2019

Mr Aaron Cartledge
State Secretary
Construction, Forestry, Maritime, Mining and Energy Union-South Australian Branch
By Email: acartledge@sa.cfmeu.asn.au

Dear Mr Cartledge,

**Re: Lodgement of Financial Report - [FR2018/300]
*Fair Work (Registered Organisations) Act 2009 (the RO Act)***

The financial year of the Construction, Forestry, Maritime, Mining and Energy Union-South Australian Branch (the reporting unit) ended on 31 December 2018. This is a courtesy letter to remind you of the reporting unit's obligations regarding financial reporting.

Loans Grants and Donations Statement

The reporting unit is required to lodge a statement showing the relevant particulars in relation to each loan, grant or donation of an amount exceeding \$1,000 for the reporting unit during its financial year. Section 237 of the RO Act requires this statement to be lodged with the Registered Organisations Commission (the ROC) within 90 days of the end of the reporting unit's financial year, namely on or before 31 March 2019.

The attached fact sheet *Loans Grants and Donations* (FS 009) summarises the requirements of the Loans Grants and Donations Statement. A sample statement of loans, grants or donations is available on our [website](#).

It should be noted that s.237 is a civil penalty provision. If a loan, grant or donation over \$1000 has been made, failure to lodge a statement of loans, grants and donations (including failure to lodge on time) may result in legal proceedings being issued with the possibility of a pecuniary penalty. Currently penalties are up to \$105,000 for each contravention for a body corporate and up to \$21,000 for each contravention for an individual and may be imposed upon your organisation and/or an officer whose conduct led to the contravention.

Financial report

The RO Act sets out a particular chronological order in which your financial report must be prepared, audited, provided to members, presented to a meeting and then lodged with the ROC. The attached document *Summary of Financial Reporting timelines* (FS 008) summarises these requirements.

We emphasise that the reporting unit is required to present its audited financial report to a meeting (either of members or of the committee of management, depending on its rules) no later than 30 June 2019 (s.266). The full financial report must be lodged with the ROC within 14 days of that meeting (s.268).

When assessing your financial report, we will continue to focus closely on timelines as well as how loans, grants and donations are reported (see attached *Loans Grants and Donations* fact sheet FS 009). The financial report must break down the amounts of grants and donations and these figures will be compared to the loans, grants and donations statement.

You can visit our website for more information regarding [financial reporting](#), and fact sheets regarding [financial reporting processes and requirements](#). A model set of financial statements developed by the ROC is also available on our website. It is not obligatory to use this model but it is a useful resource to ensure compliance with the RO Act, the Reporting Guidelines and the Australian Accounting Standards.

GPO Box 2983, Melbourne VIC 3001
Telephone: 1300 341 665 | Email: regorgs@roc.gov.au
Website: www.roc.gov.au

It should be noted that s.268 of the RO Act is a civil penalty provision. Failure to lodge the full financial report (including failure to lodge on time) may result in legal proceedings being issued with the possibility of a pecuniary penalty, as set out above, being imposed upon your organisation and/or an officer whose conduct led to the contravention (s.268).

Subsection 255(2A) report

A general purpose financial report prepared under section 253 of the RO Act must also include the expenditure report required to be prepared under subsection 255(2A) as prescribed by reporting guideline 22. A copy of the latest reporting guidelines for the purpose of section 253 is available on our [website](#).

It should be noted that the subsection 255(2A) report must be identified by title in the auditor's report in accordance with paragraph 24(c) of Australian Auditing Standard ASA 700 *Forming an Opinion and Reporting on a Financial Report*.

A [fact sheet](#) is available on our website which provides guidance on the reporting requirements under subsection 255(2A) of the RO Act.

REMINDER

YOUR AUDITOR MUST BE REGISTERED (s.256)

You must ensure that your auditor is registered by the Registered Organisations Commissioner. A list of registered auditors is available on our [website](#).

Contact

Should you require any clarification in relation to the above, please email regorgs@roc.gov.au.

Yours faithfully,

Kylie Ngo
Registered Organisations Commission

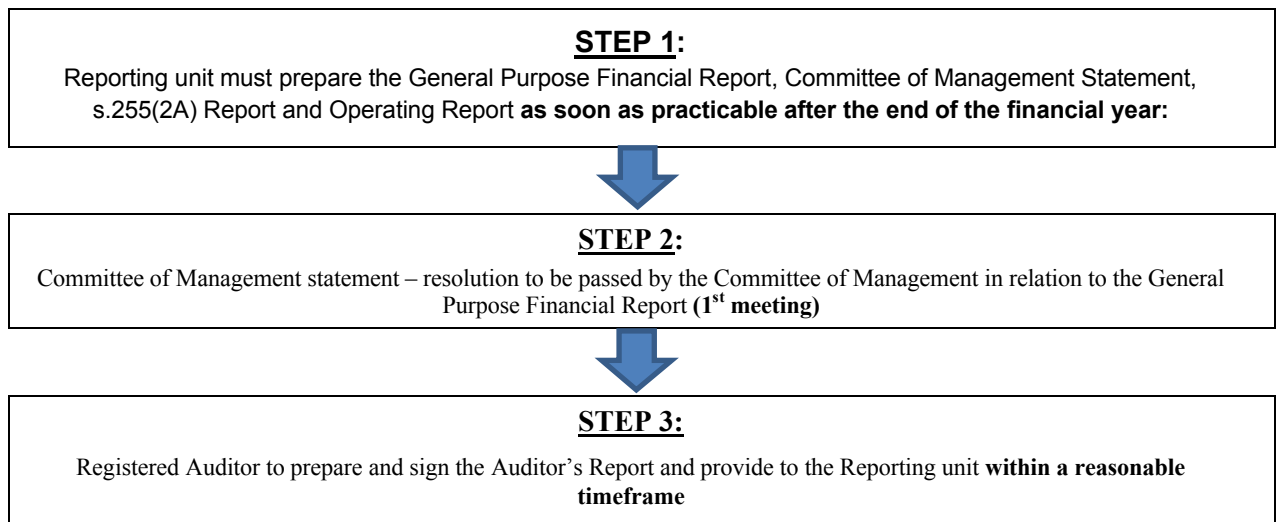


Fact sheet

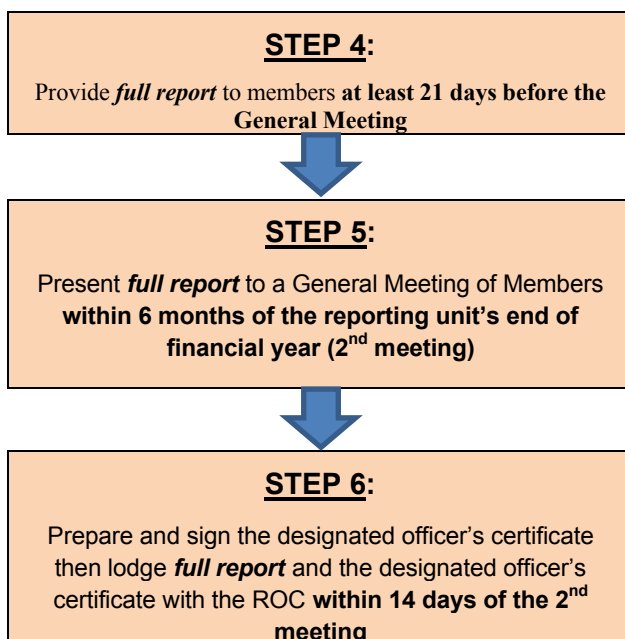
Summary of financial reporting timelines – s.253 financial reports

General Information:

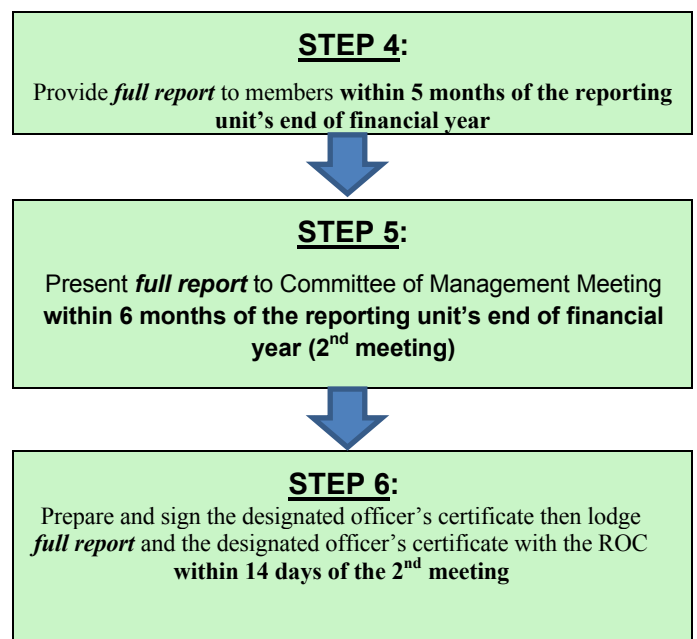
- The **full report** consists of the General Purpose Financial Report, Committee of Management Statement, Operating report, s.255(2A) Report and signed Auditors' Report
- For an explanation of each of the steps below see our [Fact sheet—financial reporting process](#).



IF RULES PROVIDE FOR PRESENTATION OF FULL REPORT
AT **GENERAL MEETING OF MEMBERS**
(this is the default process in the RO Act)





















IF RULES PROVIDE FOR PRESENTATION OF FULL REPORT AT
COMMITTEE OF MANAGEMENT MEETING
(Special rules must be in the rulebook to use this process)



Misconceptions

Over the years, staff of the Commission have noted that there are some common misunderstandings made in relation to the Financial Reporting Process. They include:

Misconception	Requirement
<p> The Committee of Management statement is just copied from the Reporting Guidelines</p>	<p> The Committee of Management statement must have the date of the Committee of Management resolution recorded upon it and it must be signed and dated BEFORE the auditor signs their report</p> <p>Further, if any of the statements within it need to be modified to suit the reporting unit (for instance not holding meetings) these changes must also be made</p>
<p> The Auditor's Report does not need to be signed until just before it is lodged with the ROC</p>	<p> The Auditor's Report must be signed and dated BEFORE the full report (including the Auditor's Report) is sent to members and presented to the second meeting</p>
<p> The Designated Officer's Certificate must be signed before the report is sent to members</p>	<p> The Designated Officer's Certificate declares what the reporting unit HAS ALREADY DONE to provide the report to members and present it to the meeting. It must be signed and dated AFTER sending the report to members and the second meeting</p>
<p> Documents can be dated when they should have been signed or when the events in the document occurred</p>	<p> Documents must always be dated at the date they are actually signed by an officer or auditor</p>
<p> Any auditor can audit a financial report</p>	<p> Only registered auditors can audit the financial report</p>
<p> The Committee of Management statement can be signed at any time</p>	<p> The resolution passing the Committee of Management Statement must occur and the statement signed and dated BEFORE the auditor's report is signed and dated</p>
<p> Any reporting unit can present the Full Report to a second COM meeting</p>	<p> Only reporting units with a 5% rule in their rulebook are able to present their report to a second Committee of Management Meeting. Otherwise, it must be presented to a General Meeting of members</p>
<p> Everything can be done at one Committee of Management meeting</p>	<p> If the rules allow for presenting the report to the Committee of Management, there must still be <u>two meetings</u>. The first meeting resolves the Committee of Management statement (including signing and dating it). Between the two meetings the Auditor's report is signed and dated. Only then can the full report be presented to the second Committee of Management meeting (if the rules allow)</p>
<p> The reporting unit has 6 months and 14 days to lodge their financial report with the ROC</p>	<p> The reporting unit must lodge the financial report within 14 days of the second meeting</p>

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This fact sheet is not intended to be comprehensive. It is designed to assist in gaining an understanding of the Registered Organisations Commission and its work. The Registered Organisations Commission does not provide legal advice.



Fact sheet

Loans, Grants & Donations

The Loans, Grants & Donations Requirements

The Fair Work (Registered Organisations) Act 2009 (the RO Act) requires an organisation or branch to lodge a loans, grants and donations statement (the statement) within 90 days of the ending of the financial year.

Under the Commissioner's Reporting Guidelines, a reporting unit's General Purpose Financial Report (the financial report) must break down the amounts of grants and donations (see below). The figures in the financial report will be compared to the loans, grants and donations statement.

The Loans, Grants & Donations Statement

Section 237 of the RO Act applies to every loan, grant and donation made by an organisation or branch during the financial year that exceeds \$1000. The following information must be supplied to the Registered Organisations Commission (the ROC) for each relevant loan, grant or donation:

- the amount,
- the purpose,
- the security (if it is a loan),
- the name and address of the person to whom it was made,* and
- the arrangements for repaying the loan.*

*The last two items are not required if the loan, grant or donation was made to relieve a member of the organisation (or their dependent) from severe financial hardship.

The statement must be lodged within 90 days of the end of the financial year and the ROC has a [Template Loans, Grants and Donations Statement](#) on its website. The ROC encourages branches and organisations to lodge the statement even if all of the figures are NIL.

Common misconceptions

Over the years, staff of the Commission have noted that there are some common misunderstandings made in relation to the Statement. They include:

Misconception	Requirement
<p>X Only reporting units must lodge the Statement.</p>	<p>✓ All branches and organisations, regardless of whether they lodge a financial report, must lodge the statement within 90 days of the end of the financial year. An organisation cannot lodge a single statement to cover all of its branches.</p>
<p>X Employees can sign the Statement.</p>	<p>✓ The statement must be signed by an elected officer of the relevant branch.</p>
<p>X Statements can be lodged with the financial report.</p>	<p>✓ The deadline for the statement is much shorter (90 days) and if it is lodged with the financial report it is likely to be late.</p>

Grants & Donations within the Financial Report

Item 14(e) of the Commissioner’s Reporting Guidelines requires the reporting unit to separate the line items relating to grants and donations into grants or donations that were \$1000 or less and those that exceeded \$1000.

As such, the note in the financial report relating to grants and donations will have four lines.

In the [ROC's Model Statements](#) the note appears as follows:

Note 4E: Grants or donations*

Grants:	2017	2016
Total expensed that were \$1,000 or less	-	-
Total expensed that exceeded \$1,000	-	-
Donations:		
Total expensed that were \$1,000 or less	-	-
Total expensed that exceeded \$1,000	-	-
Total grants or donations	-	-

The Commissioner’s Reporting Guidelines requires that these line items appear in the financial statements, the notes or in the officer’s declaration statement, even if the figures are NIL.

Implications for filing the Financial Report

During their review of the financial report staff of the ROC may confirm that the figures in the financial report match the disclosures made in the statement. Any inconsistencies in these figures will be raised with the organisation or branch for explanation and action.

This may involve lodging an amended loans, grants or donations statement. Any failure to lodge a loans, grants or donations statement or lodging a statement that is false or misleading can attract civil penalties under the RO Act.

If a reporting unit did not fully comply with these requirements in their last financial report, its filing letter will have included a statement reminding the reporting unit of its obligations.

It is strongly recommended that all reporting units review their filing letters from the previous financial year to ensure any targeted concerns are addressed in their latest financial report. Failure to address these individual concerns may mean that a financial report cannot be filed.

Previous financial reports and filing letters are available from the website.

Further information

If you have any further questions relating to the loan, grant and donation disclosure requirements in the statement or the financial report, please contact the ROC on regorgs@roc.gov.au

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