



Australian Government
Registered Organisations Commission

23 May 2019

Ms Karen Batt
Federal and Branch Secretary
CPSU, State Public Services Federation Group
Victorian Branch

By email: kbatt@cpsuVIC.org

Dear Ms Batt

Exemption from financial governance training application for Ms Carol Bakker – Community and Public Sector Union – State Public Services Federation Victorian Branch (CPSU – SPSF Vic Branch) – GT2019/21

I refer to your application dated 6 March 2019 for an exemption under section 293M of the *Fair Work (Registered Organisations) Act 2019 (RO Act)* on behalf of Ms Carol Bakker.

As you would be aware, section 293K of the RO Act requires each officer of an organisation or branch whose duties include financial duties that relate to the financial management of the organisation or branch, to undertake approved training that covers each of the officer's financial duties, unless exempted under section 293M.

Section 293M of the RO Act allows the Commissioner to grant an exemption if he is satisfied that the officer has a proper understanding of the officer's financial duties within the organisation or branch due to the officer's:

- a) experience as a company director;
- b) experience as an officer of a registered organisation; or
- c) other professional qualifications or experience.

The Commissioner has formally delegated to the Executive Director of the Registered Organisations Commission (**ROC**), the relevant powers relating to the exemption of approved training.

You have advised that Ms Bakker was appointed to fill a casual vacancy for the office of Branch Representative on the Federal Executive of the CPSU SPSF Group effective from 1 March 2019. The appointment occurred pursuant to rule 44.1(d) of the CPSU-Chapter C-SPSF Group rules (**the rules**). If the application for an exemption under section 293M of the RO Act is refused, approved training in accordance with section 293K would be required to be completed by 1 September 2019.

Assessment

In the circumstances of this application, I must be satisfied that Ms Bakker has a proper understanding of her financial duties with respect to her appointment to this office because of her experience as an officer of a registered organisation or other professional qualifications or experience.

You advise that in accordance with rule 4.2(a), the Federal Executive, to which Ms Bakker has been appointed as Branch Representative, is the committee of management of the CPSU SPSF Group between meetings of the Federal Council. I also note that under rule 4.2(b), the Federal Executive exercises the same financial responsibilities as those exercised by the Federal Council as set out under rule 3.7, which includes the power to:

- set the salaries, conditions and work location of federal officers of the SPSF Group;
- authorise the disbursement of moneys from the federal fund for any purpose within the objects of the Union; and

for the purposes of managing the federal fund:

- buy, sell, rent, lease, sublet or otherwise deal with any property, real or personal;
- enter into any contract;
- borrow money and mortgage or charge any real or personal property of the SPSF Group; and
- establish any company or trust to hold, or assign on trust, any real or personal property of the Federal Fund;

You have submitted that the specific circumstances that warrant consideration for Ms Bakker's exemption from undertaking training under section 293M relate to the fact that:

- Ms Bakker already holds the office of Victorian Branch Vice-President, by virtue of which she is a member of the Branch Council, the committee of management of the Branch;
- she has undertaken the ACTU Union Governance Training course (approved under section 293L of the RO Act) on 30 October 2018, the content of which has not changed since that time; and
- the Federal Council exercises similar powers to the Branch Council as set out under rule 7.2, albeit for the purposes of control and management including the financial management of the business and affairs of the Victorian Branch of the CPSU SPSF Group.

A copy of the certificate evidencing Ms Bakker's completion of the relevant training on 30 October 2018 has been provided in support of the application.

The correlation between the financial powers exercised by the Federal Council and the Branch Council is relevant to the consideration of this application in that an exemption from undertaking financial training was granted to Ms Bakker in December 2018, in respect to her appointment to the office of Delegate to the Federal Council.

In assessing that application I took into account Ms Bakker's experience in holding the office of Victorian Branch Vice-President, which, by virtue of rules 7 and 8, makes that office holder a member of the Victorian Branch Council and the Victorian Branch Executive.

The fact that the Victorian Branch Executive is the Victorian Branch's committee of management between meetings of the Victorian Branch Council has been referred to in support of your application.

In my assessment I also note that rule 13.4 provides that the Branch Vice-President shall exercise all of the rights and perform all of the duties of the Branch President in their absence, or at their request, in circumstances where rule 13.3 provides amongst other things, that the duties of the Branch President include:

- being an officer of the Branch Council and the Branch Executive;
- acting to safeguard the reputation, unity, autonomy and property of the Branch; and
- being an ex officio member of any committee of the Branch.

Decision

I have taken into account Ms Bakker's experience in performing her duties, including financial duties, as Delegate to the Federal Council, as Branch Vice-President and as a former Branch Councillor, all of which have given her the opportunity to understand her financial duties as an office-holder, and which are relevant to this office in relation to which the exemption is sought.

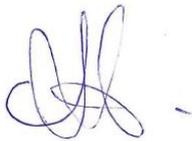
I have also taken into account the fact that Ms Bakker completed relevant and approved financial training four months prior to her appointment as Branch Representative to the Federal Executive.

I therefore grant Ms Bakker an exemption from undertaking approved financial training in respect of the office of Branch Representative to the Federal Executive. Taking into account all of the material before me and all relevant matters, I do not consider that any conditions are, in this case, appropriate. In accordance with section 293M(2), I am satisfied that Ms Bakker has a proper understanding of her financial duties.

As part of its commitment to educating registered organisations and their officers as to the duties and obligations under the RO Act, the ROC regularly publishes information (including decisions) to assist in this regard. On that basis, I request that you consent to the publication of this decision on the page of the ROC's website. Please advise the ROC of your views in this regard by **Friday 31 May 2019**.

If you have any questions concerning this matter please contact Ms Andrea O'Halloran on 1300 341 665 or via email at regorgs@roc.gov.au.

Yours faithfully



Chris Enright
Executive Director
Registered Organisations Commission