



DECISION

Fair Work (Registered Organisations) Act 2009
s.158(1) RO Act—Rules of organisations

Australian Community Services Employers Association, Union of Employers (D2020/13)

DEPUTY PRESIDENT COLMAN

MELBOURNE, 10 NOVEMBER 2020

Application for consent to alter the eligibility rules of an organisation

[1] The Australian Community Services Employers Association, Union of Employers (ACSEAUE) has made an application for the Commission’s consent, pursuant to s 158(1) of the *Fair Work (Registered Organisations) Act 2009* (Act), to alter its eligibility rules. ACSEAUE is an organisation which represents employers and persons (other than employees) who carry on business in or in connection with the provision of community services.

[2] The application seeks to renumber the eligibility rules of the organisation. The alterations do not affect the substance of the eligibility rules.

[3] Notice of the application was published in the Commonwealth of Australia Gazette on 9 September 2020. The period for lodgement of objections under regulation 124 of the *Fair Work (Registered Organisations) Regulations 2009* (Regulations) expired on 14 October 2020. There were no objections.

[4] Section 158 of the Act relevantly provides:

“158 Change of name or alteration of eligibility rules of organisation

(1) A change in the name of an organisation, or an alteration of the eligibility rules of an organisation, does not take effect unless:

(a) in the case of a change in the name of the organisation—the FWC consents to the change under this section; or

(b) in the case of an alteration of the eligibility rules of the organisation:

(i) the FWC consents to the alteration under this section; or

(ii) the General Manager consents to the alteration under section 158A.

(2) The FWC may consent to a change or alteration in whole or part, but must not consent unless the FWC is satisfied that the change or alteration has been made under the rules of the organisation...”

[5] An applicant is also required to comply with Regulation 121 of the *Fair Work (Registered Organisations) Regulations 2009* (the Regulations), which provides:

“121 Application for consent to change of name or alteration of eligibility rules of an organisation (s 158 (1))

(1) An organisation may apply to the FWC for the consent of the FWC under subsection 158(1) of the Act to:

- (a) change the name of the organisation; or
- (b) alter the eligibility rules of the organisation.

(2) An application under subregulation (1) must:

(a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and

(b) set out:

- (i) if the application is for consent to change the name of the organisation—the proposed name and the reason for the proposal; or
- (ii) if the application is for consent to alter the eligibility rules of the organisation—the proposed alteration, the reason for the proposal and the effect of the proposal, in sufficient particularity to allow the proposal to be properly considered; and

(c) contain a declaration:

- (i) that the change or alteration was made in accordance with the rules of the organisation; and
- (ii) stating the action taken under those rules to make the change or alteration; and
- (iii) verifying the facts stated in the application; and

(d) be lodged with the FWC; and

(e) if the application is for consent to alter the eligibility rules of the organisation—be lodged with a copy of the rules that are proposed to be altered.

(3) If an application under subregulation (1) is not in accordance with this regulation, the General Manager must tell the applicant how the application or statement does not comply with the regulation.

(4) An organisation that has a web site must publish on its web site a notice that it has lodged the application mentioned in subregulation (1).’

[6] Based on the materials submitted with the application, including the declaration of Kim Teague, Secretary of the ACSEAUE, I am satisfied that the organisation has complied with the requirements of the Act and the Regulations.

[7] In relation to the requirement in s 158(2) of the Act, I am satisfied that the alteration of the eligibility rules has been made under the rules of the organisation, on the basis that the organisation convened an annual general meeting on 17 June 2020, and that a quorate vote of members passed the alteration to the rules of the organisation.

[8] I consider that in all the circumstances it is appropriate to consent to the alteration. I consent to the alteration of the eligibility rules of the association. The alteration will take effect from 17 November 2020.



DEPUTY PRESIDENT

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