



Records to be kept by registered organisations

Record keeping is important to ensure that organisations are transparent and accountable to their members. There are a number of records that registered organisations must keep under the *Fair Work (Registered Organisations) Act 2009* (the RO Act). This fact sheet will explain the records that must be kept, and provide good governance practices to help organisations achieve best practice in their record keeping.

Good governance in record keeping protects the organisation, protects the members and protects the officers and employees of an organisation. Proper record keeping empowers organisations to retain important evidence about actions that have been taken and decisions that have been made by office-holders.

This fact sheet is a guide and does not cover all matters relating to records that organisations need to keep, provision of access to records and the lodgement of records under the RO Act.

Every organisation also has rules that specify particular records must be kept.



Did you know?

RO Pod, the Fair Work Commission's (the Commission) podcast, has an episode dedicated to record keeping and decisions making. It is part of our Good Governance in Practice podcast series and includes real life examples, practical steps and hints and tips. You can find the episode [here](#).

Records to be kept

1. A register of members (sections 230 and 231, regulation 147)

The RO Act requires organisations to keep:



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- a register of members which records each member's:
 - name
 - postal address, and
 - whether the member became a member under an agreement with a state union (section 151)
- a copy of the register of members as it stood on 31 December in each year. This must be kept for 7 years
- a record of the number of members on 31 December each year; and
- a record of the number of members who on 31 December each year were only members because of a membership agreement with a state registered union under section 151.

Case – Registered Organisations Commissioner v Transport Workers' Union of Australia [2018] FCA 32



Two branches failed to keep accurate records of their members, meaning that the organisation's record of members was not accurate. Justice Perram of the Federal Court said:

Record keeping under this legislation is a significant matter and it needs to be understood by organisations that this is a serious piece of legislation and the apparently mundane obligations it imposes are to be obeyed.

Penalty: \$163,000 (the original penalty of \$271,362.36 was reduced on appeal)

2. Offices and office holders (section 230)

Organisations are required to keep:

- a list of the offices in the organisation and in each branch (even if they are vacant)
- a list of all people holding the offices, showing each person's:
 - name
 - postal address, and
 - occupation.



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Best practice tip!

We recommend that you keep a professional address on your list of officers for each officer (such as the organisation or branch office) as their address for this purpose.

This means that you don't give us private information when you lodge your annual return (which we will put on the website) but it also means you only need to update the addresses when the branch or organisation moves – not whenever the officer moves house!

3. Elections (sections 230 and 231, regulation 148)

Organisations are required to keep:

- a record of each election that must be held during the calendar year (both national and branch officers); and
- a copy of the register, or relevant part of the register (e.g. the register of members of a branch), as it stood on the day that the roll of voters closed for a ballot for an officer election (unless the AEC decides a ballot is not required). This must be kept for seven years.

4. Branches and addresses (section 230)

Organisations are required to keep records of:

- the name of each branch of the organisation
- the name of each branch that commenced operation in the previous 12 months
- the name of each branch that ceased operation in the previous 12 months
- the address of the office of the organisation; and
- the address of the office of each branch of the organisation.



A real world example – moving the national office

Brigit is the secretary of XYZ employer association and they recently moved the national office in with the Melbourne branch to save money on rent. What does she need to do?

She must update the records of the address of the national office and its officers.

Don't forget:

Brigit has to send the Commission a notification of change – the Commission must be told within 35 days of the address of the organisation changing. It must include all the national officers too if the national office is listed in their records as their professional address. (section 233 and regulation 151)

5. Financial records (section 252)

Reporting units of an organisation (see [Fact sheet: Financial reporting process and timelines](#) for an explanation of reporting units) are required to keep financial records for a period of 7 years:

- that correctly record and explain the transactions and financial position of the reporting unit. This can include a record of approval of expenditure, purchase and sale of assets, other relevant items and records required to be kept under regulation 166
- in a consistent manner with the other reporting units in their organisation
- that enable the preparation of a General Purpose Financial Report and
- in a way that enable the accounts to be conveniently and properly audited.



Section 253 and the Australian Accounting Standards require that the general purpose financial report must be prepared on an accruals basis, but records can be kept on a cash or accruals basis

6. Minutes (section 141)

Organisations must have a rule which requires the keeping of minute books. Those minute books must record the proceedings and decisions of meetings of committees of management of the organisation and its branches.



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Minutes and other records that are kept by the organisation must be kept in accordance with their rules.

For information on alterations to rules and rule requirements please contact the Fair Work Commission – regorgs@fwc.gov.au.

7. Officer and related party disclosures (section 293)

Officers are required to disclose certain financial information to their committees of management.

- All officers must make disclosures to their committees about payments because the officer is a member of board under section 293B, as well as payments from related parties
- Officers with financial management duties must also disclose material personal interests and any changes to those interests, under section 293C

The organisation or branch must keep this information to complete the annual Officer and Related Party Disclosure Statement (ORP statement). The ORP statement must be lodged with the Commission. For more information on [officer disclosures](#) or [organisation disclosures](#) please see our guidance notes.

Material personal interests that are disclosed by officers must be recorded in the minutes of the committee of management meeting.



RO Act requirements and good governance

This fact sheet provides guidance about the records required under the RO Act. While this is an important first step, good governance requires many more types of records to be kept – including records of decisions and policies, as well as records about finances.

Good governance also means that there are processes in place to ensure records:

- are kept safely
- are accurate
- can only be edited for proper purposes
- can be readily located and understood
- respect the privacy of others



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Access to records

In some circumstances, organisations must provide access to their records. The RO Act does this through three main avenues:

- letting someone inspect the records
- requiring that a copy be provided or lodged
- requiring them to be presented to a meeting.

The list below includes examples of when access to records is required. It is worth noting that records can be made available by consent if privacy concerns are addressed.

Some sections of the legislation authorise a person to inspect the records:

- the General Manager of the Fair Work Commission (the General Manager) may authorise a person to inspect, make copies of, or take extracts from, the records kept by an organisation under sections 230 and 231 (section 235)
- an officer of an organisation may inspect the organisation's books at all reasonable times for the purpose of a legal proceeding. This right continues for seven years after the person has ceased to be an officer. The definition of 'books' includes a register, any other record of information, financial reports, financial records and documents (section 280)
- in certain circumstances a member may apply to the Fair Work Commission for an order authorising inspection of financial records (sections 273, 274 and 275)
- the committee of management or a general meeting of members of a reporting unit may authorise a member to inspect financial records (section 277)
- a member of an organisation may inspect a loans, grants and donations statement lodged with the Commission (section 237)
- the General Manager may direct an organisation to provide a copy of the register of members, or part of the register, to a specified place for a member of the organisation to inspect (section 236)

Some sections require the organisation to lodge records with the Commission :

- an organisation must lodge its annual return by March 31 each year (section 233)



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- the [full financial report](#) must be lodged within 14 days of the meeting it is presented to (section 268)
- organisations and branches must lodge their [Officer and Related Party Disclosure Statement](#) within six months of the end of the financial year (section 293J)
- [prescribed information](#) for an election must be lodged at least 2 months before nominations open (section 189)

Some sections require the organisation to provide a person with a copy of the record or details of what is contained within it:

- an organisation must provide a copy of its rules, any amendments to its rules, a copy of the list of offices, and a copy of the list of people holding office to any member who requests it (section 347)
- a reporting unit of an organisation must provide a full financial report free of charge to members and must do so before it is lodged with the Commission (see [Fact sheet: Financial reporting process and timelines](#)) (section 265)
- a member of a reporting unit, or the General Manager, may apply to the reporting unit for provision of financial information (section 272 and regulation 166)
- organisations and branches must provide their members with an Officer and Related Party Disclosure Statement within six months of the end of the financial year (section 293J)
- if a member requests details of any material personal disclosure recorded in the minutes, these details must be provided within 28 days of the request (section 293C)
- during an investigation the General Manager can require a person to provide documents (section 335) or can seek a warrant to seize documents (section 335K)

Some sections require the record to be presented to a meeting:

- the full financial report must be presented to a general meeting of members of the reporting unit or, if the rules contain a '5% rule', to a meeting of the committee of management of the reporting unit within six months of the end of the financial year (section 266)

As noted above, this is not a complete list of records. For further information on other records that must be kept, please see:

- [Fact sheet: Elections in organisations and their branches](#),



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- [Fact sheet: Annual returns – Records to be lodged annually by registered organisations,](#)
- [Fact sheet: Officer and related party disclosures and](#)
- [Fact sheet: Financial reporting process and timelines for lodgment requirements.](#)

Further information

If you have any further questions relating to the records to be kept by registered organisations, please email the Commission at regorgs@fwc.gov.au.

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This fact sheet is not intended to be comprehensive. The Fair Work Commission does not provide legal advice. Users must rely upon the relevant legislation, which is set out in the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* and the *Fair Work (Registered Organisations) Regulations 2009*.