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RO POD episode 56 – Compliance snapshot and setting up for a successful holiday season

Speaker Key

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AN: Welcome to RO pod: Talking about governance of registered organisations with the Registered Organisation Services branch at the Fair Work Commission, the official podcast about the regulation of unions and employer associations. In this podcast we'll share essential information, uncover handy hints and tips and reveal our best tools for proactive compliance with the complex legislative requirements.

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00:00:44

KH: Hello and welcome to RO pod. I’m Kirstyn Ho and I’m an Advisor in the Education and Advice team of the Fair Work Commission’s Registered Organisations Services Branch. In today’s



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episode we will be talking about our 2024 compliance snapshot that we've released recently. You can find that on our website under 'Measuring Compliance Trends', or in the related links to this podcast.

So, we know that statistics can sometimes seem 'dry' and aren't always easy to understand on your own. So here with me today is Andrea O'Halloran, a Senior Advisor in the Governance and Protected Disclosures Team to talk through some of the statistics in the snapshot, and what they might mean for your organisation. Welcome Andrea.



00:01:27

AO: Thanks for having me on Kirstyn.

KH: It's my pleasure.

So to kick us off, I know that we publish the compliance snapshot as well as an annual report card on financial reporting. Could you please walk us through the differences between those documents, and how organisations should be using the snapshot?

AO: Yes, absolutely. So the compliance snapshot is a broad overview of matters relevant to organisations, including stats related to annual returns, elections, permits, as well as looking at our education activities and the Commission's timeframes for processing lodgements.

The Financial Reporting card is focused solely on those issues related to financial reports and it provides more hands-on guidance on preventing common non-compliance issues.

So in terms of how it should be used, the snapshot is there to help organisations monitor their performance against the performance of organisations overall. If you identify any metrics that your organisation isn't doing so well on, it's a great opportunity to reflect on your processes, as well as directing your resources to address any gaps.

It's great timing too – we're coming up to the end of the calendar year so there'll be bits and pieces that organisations need to get ready before the holiday season starts!



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KH: Andrea, what's the significance of the end of the calendar year for organisations? I thought the financial year ended in June?

AO: For many organisations – yes. But each organisation's financial year is prescribed by its rulebook and there are currently seven different financial years across all the registered organisations that we regulate. After the 30th of June, 31st of December is the next most common date that organisations end their financial year. On top of that, people may be going on leave soon, so it's important to get on top of any upcoming deadlines in January and early February now.



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KH: That makes sense. Let's get into the statistics in the snapshot now. I was thinking it would be great if I can get you to start on things that organisations are doing well, before we touch on some areas for improvement.

AO: Sure thing. But before I get into specifics, I think it'd be helpful for our listeners if we zoom out and give everyone some context to the scale of the organisations that make up these statistics.

As of the 30th of September this year, there were 92 registered organisations. 51 of these are employer associations, 40 are unions, and 1 is an enterprise association. While 92 organisations may not sound like a lot, these organisations represent more than two million members. As you can imagine, many of these organisations have multiple branches and divisions in addition to their national office. In total, there are 375 entities.



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KH: Wow, that's quite a few. Would each of those 375 entities have to lodge a separate financial report?



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AO: Most of them would, but not all of these 375 are reporting units, and even then some reporting units have reduced financial reporting under the RO Act. However, there are still 268 reporting units, which reported about \$1.6 billion in annual revenue and control approximately \$3.8 million in assets.

KH: So what about annual returns? Would each of those reporting units have to file one?

AO: No. Each organisation files only one annual return – no matter how many branches they have. As I mentioned earlier, there were 92 registered organisations as of 30 September, which means there are 92 annual returns that need to be filed every year.

In 2024, 100% of organisations lodged their annual returns by the statutory deadline of 31 March. This is the fourth year in a row that organisations have achieved this - which is excellent! So on our end, we continue to assist organisations to meet this requirement by sending courtesy letters and providing detailed templates and checklists on our website.



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KH: Right. So should organisations be starting on next year's annual return now if it isn't going to be due until March?

AO: I'd recommend organisations start preparing for it now, particularly where they have a number of branches, because the information has to be gathered for the national office to report on it.

The membership numbers to be reported are those on the organisation's register on 31 December 2024.

In addition, organisations must provide information about every election that will be due in that calendar year. That is, an organisation lodging their 2025 annual return will need to outline every election they have scheduled from 1 January to 31 December 2025.



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KH: So what if an organisation has an election scheduled before it's submitted in the annual return?

AO: That's not a problem. An organisation can include elections that have already started or finished in their return.

There's a separate document called prescribed information – or PI – that organisations need to lodge to trigger an election. But I'll touch on that later on.

KH: Sure. And was there something else you wanted to cover off now?

AO: Yes. I want to go back and expand on how organisations are doing with financial reports.

Out of the 268 financial reports lodged last year, 75% of them were assessed as compliant. This is always an important area for organisations to reflect on and prioritise – not just that they lodge on time but that the financial report itself is compliant – and the upcoming year will be no different.



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KH: I see. And were there specific issues with compliance that we were noticing with financial reports?

AO: Absolutely. There are three main areas that I'd recommend organisations focus on.

Firstly – following statutory timeframes. In particular, lodging the full report with us within 14 days of the report being presented at the second meeting, and lodging the Loans, Grants and Donations statements – or LGD statement – within 90 days after the end of the financial year.

Secondly – disclosing employee provisions in your financial report, as required by Item 15 of the General Manager's reporting guidelines. There are four categories, annual leave, long service leave, separation and redundancy, as well as other employee provisions. Even where a reporting unit doesn't have these provisions, they must still report them as 'nil'.



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Finally – fixing issues identified in the previous year’s filing letter. As many as 21% of financial reports were non-complaint for failing to remedy previous errors. When this happens, organisations may be subject to what we call an advanced review. This is a deeper dive into an organisation’s financial reporting in order to check on issues, and can be a time-consuming process for organisations and the Commission. So we’re really keen to help organisations to get things right the first go.

So how can organisations address each of those issues? Would you have any practical tips for them?



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AO: Of course.

With timeframes, I’d strongly recommend organisations plug their key due dates into our Compliance Calculator, which you can access on our website. You can tailor it to your organisation's financial year, and then set calendar reminders of the relevant deadlines. This is especially important for organisations that end their financial year on 31 December, as the due date for your LGD statement will be the same as the annual return – 31 March of the coming year. Start early so you can submit both on time. In addition, please keep in mind that 90 days is NOT three months. The calculator will help you get the dates right! And remember, you can find it on our website.

For the financial reporting guidelines, they can also be found on our website along with further information including a fact sheet that covers section 255(2A) requirements for reporting on specific items.

With repeat errors, I’d urge organisations to set aside time both to refresh their memory on issues identified in the previous year’s filing letters before preparing this year’s report, as well as taking time to check the prepared report before lodging it. It can particularly be a problem for organisations where they use the same approach as last year – and last year was wrong.



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KH: Thanks for that Andrea. Can I draw your attention to elections now? It's an area that's a little bit confusing to me, as I know that organisations must provide information about them in two separate documents.

AO: That's right, so there's two documents that contain information about elections – the annual return and the prescribed information.

In the annual return, organisations must declare any elections that are due for that calendar year under their rules. This includes any elections already in progress or concluded by the time the annual return is due, so that could be elections held in January, February or March depending upon when the annual return is lodged. Casual vacancy elections won't be included as they won't be known ahead of time.

On the other hand, prescribed information must be lodged ahead of every election, whether it's scheduled, for a casual vacancy, or as a result of insufficient nominations received in a previous election. Prescribed information is what the Commission uses to confirm whether an election is required, and it must be lodged at least 2 months before nominations open. This gives the Commission time to issue a decision, and the AEC time to organise the election timetable and call for nominations. The date that nominations open will differ depending on the rules of each organisation. Sometimes an organisation will have multiple dates that different nominations are due to open during the year. This means that multiple PIs may need to be filed every year.



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KH: Right. Could you give me an example of how this might work in practice?

AO: Sure. Let's say an organisation's rules state that nominations for elections open on the first Monday in March. In 2025, that day is March 3rd. The PI is due at least 2 months before, so the organisation needs to lodge its PI by January 3rd at the latest. If the organisation has a mandatory



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holiday shutdown period from Christmas until mid-January – they must prepare and lodge that PI in December before they go on leave.

Clearly, this is far before the annual return is due on 31 March. By the time the annual return is due, the election will already be in progress. But the organisation still needs to include this election in their annual return because it falls in 2025.



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KH: Right, that makes a lot more sense. So, in scenarios like the organisation where a due date is during the holiday period, are there any Commission-wide shut down dates they should be mindful of?

AO: That's a good question. While some staff at the Commission may take leave over the holidays, the Commission stays open through the holiday period – except for the public holidays. Organisations can continue to lodge their documents with us over this period by email and they should be processed more or less within the usual timeframes. So, don't assume that there will be extra time to lodge documents during the holiday period – 'at least two months before' means just that, and late lodgements could attract a penalty. Organisations need to plan ahead and make arrangements to lodge documents ahead of holiday leave and office shutdowns where necessary, particularly as an office-bearer needs to sign the prescribed information and the annual return.

KH: So when you say "usual timeframes", are you referring to the timeframes outlined in the compliance snapshot?

AO: That's right. I'm pleased to report that the Commission is issuing election decisions far quicker than our targets. 84% of organisations have had their elections arranged within 4 weeks of lodging their PI, and 98% have their elections arranged within 8 weeks!



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KH: Are most organisations lodging compliant PIs then?

AO: Yes, organisations have been making good use of our PI templates on the website. If I could give one reminder though, it would be to ensure the correct election rules are identified and described in the PI. This will prevent unnecessary delays in our processing and in the AEC arranging the election.

KH: So speaking of processes being quick, I just wanted to touch on entry permits. The compliance snapshot says that the average timeframe to approve permits is now only 17 calendar days. That's much faster than it used to be, right?

AO: Yeah it is a lot faster. We've significantly streamlined the application process for entry permits this year, which we covered in some detail during a live webinar in October. With those changes, the average time to approve permits has dropped from 28 to 17 calendar days. That means, at the moment, most permits are being approved in less than 3 weeks. And for permit renewals it's even quicker.



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KH: Andrea, for our listeners who may not have attended this webinar, could you briefly touch on what the Commission's done to streamline the entry permits process?

AO: Sure. There are two major changes we've made to streamline the process.

Firstly, the information requested in form F42C has been incorporated into the application form F42 itself, so it's now a single form to be completed and lodged. F42C was a form that we used to send to the Committee of Management member after an application Form F42 was received, in order to confirm the identity of the proposed permit holder. Form F42C has now been superseded so now everything can be done in one form when applying.



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Secondly, the ID verification process has been simplified. After applying, if the proposed permit holder hasn't previously had their identity verified in a previous application for a permit, they'll have to attend a virtual interview with a staff member, conducted via Teams, to confirm their identity. We've simplified the process, and several forms of government-issued photo identification are accepted, in particular – Passports, Drivers Licenses, Proof of Age cards and ImmiCards.

We will still accept a Digital ID from Australia Post if you have one, but you don't have to get it specially just for a permit application.

We've also put some added guidance on the forms themselves – reminding organisations that they have to make enquiries and searches, before lodging the application, to ensure that a permit holder is a fit and proper person.



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KH: Right. So, I know that timeframes are very important in the entry permits application and renewal process. Was there anything that you'd like to remind our listeners noting that the holiday leave season is coming up?

AO: Yes – that's a great question.

For proposed permit holders applying for the first time, be mindful that we need to complete the ID verification interview before we can process the application and issue a permit. That means that if an application is lodged and then you immediately go on leave, the application cannot be processed until you've set aside time to do this interview. As such, if you want to have the permit issued early in the new year and you haven't already applied, you need to get onto it ASAP – as well as letting us know any unavailable dates. The interview process doesn't take long, provided that you've got your current photo ID with you, so you might even be able to get it done before you go on leave.



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For existing permit holders, there's two things to be mindful of if your permit is set to expire soon.

Firstly, we encourage you to apply for renewal 4 to 6 weeks before your current permit is due to expire, so the existing one doesn't expire before the new one is issued. So, if your permit expires before the end of January – you should get started now if you haven't already applied, and certainly before you go away on any holiday leave.

Secondly, you should consider making arrangements to return the expiring permit before you go away or ask a colleague to do so on your behalf. But I'd strongly recommend you mail it in advance as it is ultimately your responsibility as the permit holder (and not a colleague's) to return it on time. You only have 7 days to return a permit after it expires, and this timeframe doesn't extend due to the holiday period. Failing to do so within 7 days will have implications for future permit applications, and you'll also have to explain why you didn't comply with the requirement.

KH: That's a really good reminder to check your permit expiry date and make arrangements accordingly.



00:20:00

AO: Absolutely. So far, we've talked about the parts of the compliance snapshot related to lodgments by organisations, which is my area of expertise. But I'd like to throw it over to you now Kirstyn, to take us through some of our work in the education area if that's alright.

KH: I'm more than happy to do that. So we're really pleased to report that we're delivering more education activities than ever – totalling 25 education activities in the last financial year.

Out of those, the big-ticket item has been our Registered Organisations Education and Support Program events. These are in-person information sessions that we've held for the first time



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since before the COVID-19 pandemic, and we've returned them after organisations asked us to bring them back. And we wanted to give our stakeholders the opportunity to hear from and engage directly with the subject matter experts across our 3 teams – that's education, compliance and financial analysis.



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AO: So are these sessions the “two in-person events” with attendance from “32 registered organisations” referenced in the snapshot?

KH: Yes, though with a small caveat. So, by the end of the last financial year in June, we had only held our workshops in Melbourne and Sydney – which are the two referenced in the snapshot. Since then, we have also held workshops in Brisbane, Perth and Adelaide. I was fortunate enough to attend our Adelaide event in November. Aside from presentations from our own staff, we also got to hear directly from a representative of an employer association on what good governance and culture looks like in their organisation.

Hearing about your experiences really helps us with tailoring our materials to make sure they are timely, relevant, accessible and address any concerns that come up. And by that I don't just mean officers or employees of registered organisations. Our events are also open to any industrial groups, peak bodies, registered auditors, other government agencies, consultants and anyone working in the compliance or industrial relations space.



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AO: That's great! Can our listeners expect more in-person sessions to be delivered next year?

KH: Definitely. So, we currently have further in-person sessions planned for Hobart and Canberra, so please look out for those announcements through our email subscription service.

AO: Can they attend remotely if they can't make it in person?



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KH: That's a great question Andrea. Unfortunately, we can't accommodate for remote attendance of these sessions at this stage. However, we also have three online webinars planned in 2025. These webinars will be on the topics of financial reporting, the Model Rules, and what organisations need to know about membership rights and obligations under the RO Act, and you'll be able to ask our subject matter experts questions directly at these webinars.

Outside of planned events, organisations can also book a "Governance to You" visit at any time during the year, which will be tailored directly to their concerns and questions and in a format that is the most convenient for the organisation.



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AO: I can see from the snapshot that we delivered 7 "Governance to You" packages last financial year. So can you explain a bit more about what they are?

KH: Essentially, a subject matter expert from our team will prepare a tailored presentation or information pack, or both, on how your organisation can improve compliance in any areas of concern. Whether you're unsure about disclosure requirements or are running into issues with financial reporting requirements, if there's an area that you need additional help with, we are very much committed to providing you with that assistance.

AO: If I had to summarise, I'd say the take-home message there is not to hesitate to reach out for assistance as there are a whole host of resources available.

KH: You're right on the money there Andrea.



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AO: So you've spoken a lot about interactive resources available. For listeners that may be time-poor or looking for assistance in a pinch, are there any new written materials they might want to be aware of?



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KH: Absolutely. And on that note, we've had our annual education survey recently where we asked for feedback from our subscribers. And we know from the results that our written materials are the most popular out of all our educational resources and it's something we take into account when we were planning for our education activities calendar for the upcoming year.

There's a few specific resources that we've recently added or updated that I wanted to highlight.

Firstly, we have recently re-launched our RO flower. This is a visual graphic that allows you to see and link to all of the fact sheets, forms, templates and tools that are available to assist organisations at a glance.

Secondly, we've released a new fact sheet on anti-avoidance provisions in the RO Act in relation to the ongoing administration of the CFMEU Construction and General Division.

We're also releasing a guidance note on the process of becoming a registered organisation.



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AO: Thanks Kirstyn. If you're interested in accessing any of those resources, they can all be found on our website. Was there anything else that organisations should be looking out for in the new year?

KH: Yes. So, as I briefly touched on, we've published our registered organisations education activities calendar for 2025, and that lists the education activities we have planned for the next year. I'd recommend that our listeners take some time to have a look at the activities in there to see if it covers any topics they would like further information about.

The major project for delivery is the Model Rules which are scheduled to be released in full by the middle of 2025. The Model Rules will be accompanied by plain English annotations explaining how they should be used, such as why some things need to be worded in particular ways.



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And as a side note, we'll also be moving to podcasts being released every quarter next year, instead of every two months.



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And I think that just about takes me to all the topics I prepared for discussion today, Andrea. So before we wrap up, was there anything else that you'd like to add?

AO: I know we've covered a lot of information today, so I thought I'd take a minute to summarise a few takeaway messages.

The main thing is to check what needs to be prepared or lodged before the end of the year, or in the early new year, particularly in relation to permits, annual returns and prescribed information for elections. I'd also recommend everyone to set reminders to lodge their financial reports no later than 14 days after the second meeting.

KH: Thank you so much for your time today, Andrea. And from my end, I just wanted to remind everyone to keep an eye out for invitations to in-person events and webinars next year. They'll be announced through our email subscriber service, so please take a moment to subscribe to our emails if you haven't already.

This is our last podcast for the year, so take care, happy holidays, and we'll talk to you next year!



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