

[2018] FWC 4963

The attached document replaces the document previously issued with the above code on 24 August 2018.

In [1], the applicant's registration date has been corrected.

Edrea Venal
Associate to Senior Deputy President Hamberger

Dated 28 August 2018



DECISION

Fair Work (Registered Organisations) Act 2009
s.30(1)(a) RO Act—Cancellation of registration

Master Builders Association of the Northern Territory (D2018/4)

SENIOR DEPUTY PRESIDENT HAMBERGER

SYDNEY, 24 AUGUST 2018

Application by Master Builders Association of the Northern Territory for cancellation of registration – registration cancelled.

[1] The Master Builders Association of the Northern Territory (251V) (the Association) is an organisation of employers registered under the *Fair Work (Registered Organisations) Act 2009* (Cth) (the RO Act). The Association was registered as an organisation on 1 September 1971.

[2] On 28 June 2018, the Association applied to cancel its registration pursuant to s.30(1)(a) of the RO Act. Section 30(1)(a) of the RO Act provides:

‘30 Cancellation of registration on technical grounds etc.

- (1) The FWC may cancel the registration of an organisation:
- (a) on application by the organisation made under the regulations;
- ...’

[3] The *Fair Work (Registered Organisation) Regulations 2009* (the RO Regulations) sets out the relevant regulations in that respect, being regs.33 and 34, which provide:

‘33 Cancellation of registration (Schedule 1, s.30(1)(a))

An organisation may apply under paragraph 30(1)(a) of the Act for the cancellation of its registration if approval has been given to the organisation to apply for the cancellation of its registration by a majority of the members voting at a ballot of the members taken:

- (a) in accordance with any rules that apply; or
- (b) if no rules apply - in accordance with:
- (i) any rules of the organisation providing for the election of any of its officers by a direct voting system; or

- (ii) if subparagraph (i) does not apply - procedures approved by the FWC.

34 Application for cancellation of registration (Schedule 1, s.30 (1) (a))

(1) An application by an organisation under paragraph 30(1)(a) of the Act for the cancellation of its registration 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 full particulars of the circumstances that entitle the organisation to make the application; and
- (c) contain a declaration signed by an officer of the organisation authorised to sign the declaration verifying the facts in the application; and
- (d) be lodged with the FWC.

(2) 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).

(3) The FWC, on receipt of an application mentioned in subregulation (1), must publish a notice of the receipt of the application in the Gazette.

(4) Within 35 days after publication of the notice mentioned in subregulation (3), an interested person (the objector) may lodge with the FWC a notice of objection to the application for cancellation of registration.

...

(7) FWA must:

- (a) fix a time and place for hearing the application and any objection to the application; and
- (b) notify the organisation and any objector of the time and place fixed for the hearing.

(8) FWA must not:

- (a) refuse to grant an application for cancellation of registration without giving the applicant an opportunity to be heard; or
- (b) grant the application without giving any objector an opportunity to be heard.'

[4] This application was signed by Stephen Shenfield, the Association's President, and David Malone, the Association's Executive Director. The supporting statutory declaration was made by Mr Shenfield. The application fulfils the requirements of regs 33 and 34 of the RO Regulations.

[5] Notice of the application was published in the Commonwealth of Australia Gazette on 4 July 2018. The period within which objections could be made closed on 8 August 2018. No objections were received.

[6] I heard this application earlier today, 24 August 2018. Ms Cook appeared for the Association. No other appearances were recorded. The hearing proceeded on the basis that there were no objections arising from the Gazette Notice, and no other challenges to the application.

[7] I consider it appropriate that the registration of the association be cancelled under s.30(1)(a) of the RO Act. I grant the application with effect from today, 24 August 2018.



SENIOR DEPUTY PRESIDENT

Appearances:

E Cook for Master Builders Association of the Northern Territory.

Hearing details:

Sydney with video link to Darwin.
2018.
August 24.

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