



DECISION

Fair Work (Registered Organisations) Act 2009

s.30(1)(c) RO Act - Cancellation of registration on FWC's Own Motion

Clubs Victoria Inc

(D2019/21)

DEPUTY PRESIDENT COLMAN

MELBOURNE, 23 DECEMBER 2019

Cancellation of registration of defunct organisation

[1] Clubs Victoria Inc (CVI) is an organisation of employers registered under the *Fair Work (Registered Organisations) Act 2009* (RO Act).

[2] By letter dated 30 October 2019, the President of CVI, Ms Barbara Kelly, requested the Commission to cancel its registration, as in her opinion the organisation was defunct. She stated that since 2015, CVI has been unable to elect a full complement of members of its committee of management, known under its rules as the 'council', and that CVI remains unable to convene a quorate meeting of the council. She stated that CVI finds it difficult to operate in a manner that permits it to meet its objects or to effectively represent its members, and that she, and the other three members of the council, do not believe that CVI will again operate in such a way. Ms Kelly further stated that since 2015, all members of CVI have also been members of an incorporated association called Community Clubs Victoria (CCV), and that the industrial activities of the members of CVI are conducted through CCV.

[3] Registered organisations are regulated by the RO Act and the *Fair Work (Registered Organisations) Regulations 2009* (RO Regulations). Various reporting and compliance obligations imposed on organisations by the RO Act and the RO Regulations are predicated on the existence of validly elected officials who can conduct business on behalf of the organisation. Without a properly constituted committee of management, an organisation cannot meet these obligations.

[4] Section 30(1)(c)(i) of the RO Act provides that the Fair Work Commission may cancel the registration of an organisation on its own motion if 'it has satisfied itself, as prescribed, that the organisation is defunct'. Section 30(2) provides that before the Commission cancels the registration of an organisation under s 30(1)(c) it must give the organisation an opportunity to be heard.

[5] Regulation 36 of the RO Regulations relevantly provides:

“(1) For paragraph 30(1)(c) of the Act, FWC must, with a view to satisfying itself that an organisation is defunct, comply with the following subregulations.

(2) FWC must make appropriate inquiries by letters sent by post to:

- (a) *the organisation at its office; and*
- (b) *the members of the committee of management of the organisation as last known to FWC at their postal addresses as last known to FWC....”*

[6] On 6 December 2019 I sent a letter to CVI’s registered office, to Ms Kelly, and also to the other three members of CVI’s committee of management, advising that I was considering cancelling CVI’s registration under s 30(1)(c)(i) of the RO Act, and that any submissions they may wish to make to the Commission should be lodged by 20 December 2019.

[7] Two members of the council, Mr Mark Dalmau and Mr Leon Ross, wrote to my chambers and advised that they agreed with Ms Kelly’s assessment that the association was defunct.

[8] Having made the above inquiries and having considered all of the information that is before the Commission, I am satisfied that CVI is defunct within the meaning of s 30(1)(c)(i) of the RO Act. Accordingly, I will cancel CVI’s registration with effect from 30 December 2019. A separate order cancelling the registration shall be issued with this decision.



DEPUTY PRESIDENT

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