



DECISION

Fair Work (Registered Organisations) Act 2009
s.30(1)(c) RO Act - Cancellation of registration on FWC's Own Motion

Australian Property Services Association (D2020/6)

DEPUTY PRESIDENT SAUNDERS

NEWCASTLE, 7 JULY 2020

Cancellation of registration of a registered organisation.

Introduction

[1] The Australian Property Services Association (**APSA**) is an organisation registered under the *Fair Work (Registered Organisations) Act 2009 (RO Act)*. The APSA was registered as an organisation of employees on 3 February 2010 by Fair Work Australia.

[2] On 5 June 2020, the Fair Work Commission (**Commission**) put the APSA and the members of its committee of management on written notice that it was considering cancelling the registration of the APSA pursuant to section 30(1)(c) of the RO Act, on the basis that:

- APSA has fewer than 50 members who are employees; or
- in the alternative, APSA is defunct.

[3] The APSA and the members of its committee of management were given 21 days to file any submissions, documents, witness statements or other material they wished to rely on in relation to the potential cancellation of APSA's registration. No such material has been received by the Commission.

Consideration

[4] The information which is before the Commission, much of which has been provided by the Registered Organisations Commissioner, and on which I have relied to make this decision may be summarised as follows:

- On 29 March 2019, Mr Thomas French, acting secretary of the APSA declared that "on 31 December in the previous year the number of members was 34 Financial".
- On 6 May 2019, Ms Patricia Ellis, then Secretary of the APSA's NSW Branch wrote to the General Manager of the Commission to request that the Commission deregister the APSA. In that correspondence, Ms Ellis stated:

“The Association is ‘Defunct’. It is unable to meet timely legislative requirements. The Association has no funds or assets and due to a general lack of interest have [sic] been unable to operate. Scheduled meetings have not been able to proceed as it is impossible to reach a quorum. The membership has declined to less than 25 members.”

- In late 2019, Mr French informed the Commission that “the Federal body and all Branches are, and have been for some time, dysfunctional.”
- On 18 March 2020, Mr Allan Huntly, being an authorised person on behalf of the APSA, declared that:

“a) The name of each branch of the organisation at the beginning of the previous 12 months was:

- New South Wales Branch
- Queensland Branch
- National Branch

b) No new Branch commenced operation in the previous 12 months.

c) The following branches ceased operation in the previous 12 months:

- New South Wales Branch
- Queensland Branch
- National Branch

d) There are, therefore, no current operational branches of the organisation.

...

f) There are no elections scheduled this year as the entire organisation is defunct and awaiting FWC Deregistration.

g) On 31 December in the previous year (2019) the number of members was 9 and is now (as at the date of this declaration) zero (0) members...”

- In his 18 March 2020 declaration, Mr Huntly also stated that all of its offices, including those in its branches, were vacant.
- On 30 April 2020, the APSA provided an extract from its Register of Members to further demonstrate that it had fewer than 50 members who are employees.
- The APSA’s financial statements demonstrate that it has virtually no assets or income.

[5] Given the APSA has no members, no officers, no operating branches, no capacity under its rules to admit new members in the absence of relevant officers, virtually no assets or income, and no means of raising membership subscription revenue, I am satisfied that the

APSA is defunct. I am also satisfied on the information before the Commission that the APSA has fewer than 50 members who are employees.

Conclusion

[6] For the reasons given, I consider it appropriate that the registration of the APSA be cancelled under s 30(1)(c) of the RO Act. An order to that effect will separately be issued [PR720797].



DEPUTY PRESIDENT

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