Fair Work Commission

Fact Sheet FS 001 | 6 March 2023

Role and obligations of auditors

Auditors and financial reports

The *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires that all financial reports of organisations and branches be audited by an auditor registered by the General Manager of the Fair Work Commission (the General Manager) before they are provided to members, presented to a meeting and lodged with the Fair Work Commission (the Commission).

For further information on the financial reporting process please see our website – www.fwc.gov.au.

Who can hold the position of an auditor

The position of auditor of a reporting unit must be held by:

- an individual who is a registered auditor and who is not an excluded auditor
- a firm, at least one of whose members is a registered auditor and where no member is an excluded auditor
- a company, at least one of whose directors, officers or employees is a registered auditor and has no director, officer or employee who is an excluded auditor.

If the above description no longer applies (for instance, a relevant person becomes an excluded auditor or is no longer registered) the individual, firm or company must resign the position of auditor.

For information on becoming a registered auditor see our fact sheet: Registration of Auditors.

Excluded auditors

An auditor can be excluded in relation to a specific organisation or reporting unit.

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Excluded auditor means:

- an officer, former officer, employee or former employee of the organisation or reporting unit;
- a partner, employer or employee of a person in the first dot point;
- a relative of a person in the first dot point;
- a liquidator in respect of property of the reporting unit or the organisation;
- a person who owes more than $5000 to the reporting unit or organisation; or
- a person who would not be, or who a reasonable person would consider would not be, capable of exercising objection and impartial judgment in relation to audits relating to the reporting unit having regard to all the circumstances.

Powers and duties of auditors

The auditor is entitled:

- to full and free access to all records and other documents of the reporting unit relating directly or indirectly to the receipt or payment of money, or to the acquisition, receipt, custody or disposal of assets, by the reporting unit;
- to seek from any designated officer, or employee of the reporting unit, such information and explanations as the auditor or authorised person wants for the purposes of the audit.

There are penalties for obstructing auditors.

Rotation of auditors

The RO Act limits the number of consecutive years that a registered auditor can play a significant role in the audit of a reporting unit's financial report. An individual will only be able to participate in the audit of a reporting unit for five consecutive years (or five out of seven consecutive years).

The audit report

The auditor must:

- state in their report whether, in his or her opinion, the general purpose financial report (GPFR) is presented fairly in accordance with any of the following that apply to the reporting unit:

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  - the Australian Accounting Standards
  - any other requirements imposed by Part 3 of Chapter 8 of the RO Act (including the reporting guidelines).
- if not of that opinion, say why and must, to the extent it is practicable, quantify the effect that non-compliance has on the GPFR.
- include a declaration that as part of the audit of the financial statements, they have concluded that the management's use of the going concern basis of accounting in the preparation of the financial statements is appropriate
- ensure the report describes:
  - any defect or irregularity in the GPFR
  - any deficiency, failure or shortcoming in respect of the matters in section 257(2) or section 252 of the RO Act
- ensure the form and content of the report complies with the Australian Auditing Standards
- date the report as the date that they sign the report and give it to the reporting unit within a reasonable time of being given the GPFR.

Suspected breach

If an auditor suspects, on reasonable grounds, that there has been a breach of the RO Act or the Reporting Guidelines, and the auditor is of the opinion that the matter cannot be adequately dealt with by comment in a report or by reporting the matter to the committee of management of the reporting unit, the auditor must report the matter, in writing, to the General Manager.

Other rights

The auditor:

- must be forwarded notices relating to the meetings at which the report is presented;
- has a right to attend and speak at the part of a meeting that concerns the report or their appointment;
- enjoys qualified privilege against defamation;

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- must have their reasonable fees and expenses paid by the reporting unit;
- can only be removed in accordance with section 263, which specifies decision making bodies and majorities.

Model statements

The Commission provides model statements to assist organisations and reporting units to comply with the numerous requirements of the RO Act, the AASB and the Reporting Guidelines.
The statements contain all mandatory provisions, clearly marked, and the standard policies and notes. Organisations should make changes to the statements as required to fit the circumstances of the reporting unit provided no compulsory items are removed.

The model statements are updated every financial year and are able to be downloaded from our website.

Informing the General Manager of changes

A registered auditor must inform the General Manager of any changes in their circumstances that may materially affect their registration within 14 days. A failure to do so is subject to a penalty.

Further, in order to maintain the accuracy of the register, auditors need to advise the Commission of any changes to their details by declaration as soon as practicable. A form is available on the Commission website.

Penalties

The RO Act contains penalties concerning the auditor, their appointment and the audit of financial reports. The General Manager is able to pursue financial penalties if the provisions relating to the audit of financial reports are not complied with.

Common misconceptions

There are some common misunderstandings concerning the Financial Report. They include:

Misconception	Requirement
✗ The requirements of a report under the RO Act are the same as for Corporations	✓ The Reporting Guidelines add substantial mandatory requirements to an organisation or branch's financial report. These matters must be included and an auditor must state whether they believe the report presents fairly in accordance with the Reporting Guidelines.
✗ The Model Statements cannot be changed	✓ A reporting unit should make changes to the Model Statements to ensure that accounting policies and material events are represented, however asterisked items cannot be removed. These items are mandated by the reporting guidelines
✗ The Committee of Management Statement is completely separate	✓ The audit of the full report must include the Committee of Management statement within its scope (and therefore the auditor's report must be dated *after* the resolution of the Committee of Management and the signing of the statement). Consequently meetings and compliance with the RO Act and rules are within the scope of the audit.
✗ The auditor's report has exactly the same content as a corporate one	✓ The Reporting Guidelines introduce a number of requirements that affect the content of the Auditor's Report including the declaration regarding going concern.
✗ State associations and state branches of federal organisations can be reported together	✓ Generally, the state association will be a separate legal entity to the federal state branch. These entities have separate officers, property, accounts and financial reports. If a branch is encompassed by the state association it may be able to obtain an exemption from reporting (section 269).

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Misconception	Requirement
✗ Financial reports can contain cash accounting	✓ While the RO Act allows organisations to keep their records on a cash basis, they must report on an accruals basis, including capitations and subscriptions.
✗ Loans, grants and donations only appear in the Financial Report	✓ Organisations and branches report their loans, grants and donations separately within 90 days of the end of the financial year. These figures are able to be compared to the ones that appear in the financial report.
✗ Previous assessments have no impact on this year's assessment	✓ Items that have been raised in correspondence the previous year will be checked to ensure that they have been corrected in the next report. A report will not be filed unless these items have been addressed.

Further information

If you require further assistance regarding the information in this fact sheet please contact the Commission at regorgs@fwc.gov.au or call us on **1300 341 665**.