

1 September 2020

Dear Member,

RE: Registration as a Fair Work Registered Organisation

The purpose of this communication is to seek your support to de-register ACSA as a Fair Work Registered Organisation.

Background

Prior to State and Territory based ACS entities merging to form the single entity ACSA, Aged and Community Services NSW & ACT (**ACS NSW/ACT**) was a Registered Organisation. To maintain the status quo for ACS NSW/ACT members, it was decided that the merged ACSA should be a Registered Organisation.

Registration as a Registered Organisation

As a Registered Organisation, ACSA was granted various benefits, but also was subject to strict governance conditions. Under the *Fair Work (Registered Organisation) Act 2009*, the obligations on a Registered Organisation include:

- inserting specific provisions in its Constitution;
- submitting any change to the Constitution or organisation to the Registered Organisation Commission (**ROC**) for approval;
- ensuring that its directors attend regular governance and financial training; and
- lodging notifications and providing annual reports to ROC.

According to the ROC, some of the typical benefits of registration include:

- being able to represent members in the Fair Work Commission (**FWC**);
- becoming a body corporate; and
- being able to sue or be sued in its registered name.

In ACSA's case, having 'as of right' standing to represent members at the FWC is the main benefit of being a Registered Organisation. However, if ACSA deregistered as a Registered Organisation, ACSA would still be capable of representing its members at the FWC on application to and approval by the FWC. This is the same status that lawyers and other agents have at the FWC.

As ACSA is a public company, ROC's other identified benefits are not relevant to ACSA.

Cooperation with regulators and other parties

The ROC initially approached ACSA and noted that ACSA did not use its registration to the full benefit, which does not make the registration worthwhile. ACSA was encouraged to consider deregistration. ACSA understands that the ROC has approached other employer organisations, which makes sense because ROC is primarily established to regulate unions.

This prompted the Board to commence a review of ACSA's status as a Registered Organisation. Upon careful consideration of the situation, the ACSA Board's recommendation to its members is deregistration.

Process to deregister

To start the deregistration process, a majority of ACSA members must agree to deregistration. The FWC has approved ACSA to conduct this vote at a special general meeting. ACSA will hold a special general meeting on **Wednesday 23 September 12:30pm** EST via Zoom.

If a majority of members support deregistration, ACSA will formally apply to the FWC to deregister. The FWC will then publish a notice of that application. There will then be an opportunity for anyone to object to ACSA's deregistration.

Effect of deregistration

If ACSA deregisters, it will still be able to perform all of its same functions, subject to the requirement to seek permission to appear before the FWC.

However, ACSA's costs of administration will be reduced. Currently, ACSA is regulated by the ROC as a Registered Organisation, and also by the Australian Charities and Not-for-profits Commission (**ACNC**). Both regulators require notifications when there is a change in officers or Constitution amendment, as well as the submission of annual reports. In addition, the ROC and the ACNC impose separate but similar governance standards on the directors of ACSA. Much of this duplication of administrative effort will be removed if ACSA is deregistered.

Next steps

Please register for the planned special general meeting or complete the attached Proxy Form if you are unable to attend in person.

Should you have any further questions, please contact me on 0408 230 763 or trevor.lovelle@acsa.asn.au.

Yours sincerely,



Trevor Lovelle

EXECUTIVE DIRECTOR

OPERATIONS & CORPORATE SERVICES

Aged & Community Services Australia