



General Manager's Statement

Administration of the CFMEU Construction and General Division

Melbourne, 3 October 2024

This statement explains my role in relation to the administration of the Construction and General Division (C&G Division) of the Construction, Forestry and Maritime Employees Union (CFMEU) and what the C&G Division, the Administrator and the Australian public can expect from me in relation to regulation of the CFMEU during the period of administration.

As General Manager of the Fair Work Commission (Commission), I am the regulator of federally registered organisations under the *Fair Work (Registered Organisations) Act 2009* (RO Act). I am committed to an open and transparent approach to regulation and to working collaboratively with registered organisations to ensure compliance for the benefit of their members.

In addition to my regulatory functions, I support the Commission's President in ensuring that the Commission performs its functions and exercises its powers under the *Fair Work Act 2009* (FW Act). This statement also provides information about this support in the context of the C&G Division administration.

My role as the regulator of registered organisations

My functions under the RO Act include:

- promoting efficient management and high standards of accountability of organisations and their officer holders to their members
- promoting compliance with the financial reporting and accountability requirements of the RO Act
- monitoring acts and practices to ensure they comply with the provisions of the RO Act providing for the democratic functioning and control of registered organisations.

In performing these functions, I am required to seek to embed a culture of good governance and voluntary compliance with the law within registered organisations.

Appointment of Administrator

With effect from 23 August 2024, the RO Act was amended by the *Fair Work (Registered Organisations) Amendment (Administration) Act 2024* (Administration Act) to place the

C&G Division and its Divisional branches under administration once a scheme of administration was determined and an Administrator appointed.

The scheme of the administration is contained in the *Fair Work (Registered Organisations) (CFMEU Construction and General Division Administration) Determination 2024* issued by the Attorney-General on 23 August 2024. The Administrator's powers and responsibilities under the scheme are aimed at ensuring that the C&G Division and its Divisional branches return to a position where they are democratically controlled and operate effectively and lawfully in the interests of members. The Administrator has the powers and duties of offices with responsibilities for the operation of the C&G Division and its Divisional Branches and is therefore able to make decisions regarding the Division's operations. The Administrator has obligations to report to the Minister about the operation of the scheme for administration every 6 months until the administration ends.

My role under the scheme of administration

The scheme for administration and the Administration Act gives me functions in relation to the appointment, setting remuneration and termination of the independent Administrator. As required by the scheme for administration, I appointed Mr Irving KC as the Administrator on 23 August 2024.

Alteration of rules

The Administration Act also provides that, if there is an alteration of the rules of the C&G Division, for that alteration to take effect, I must certify that in my opinion the alteration meets certain requirements, including that it has been made in accordance with the scheme.

Complaints

As required by the scheme, the Administrator has established a procedure for making complaints about officers, employees, members and workplace delegates of the C&G Division or its Divisional branches, and may refer complaints to me or another law enforcement agency or regulator for investigation. I will ensure that investigations of any complaints referred to me are conducted in a timely manner and are appropriately resourced.

Non-compliance with anti-avoidance provisions

The Administration Act includes anti-avoidance provisions that prohibit conduct, or involvement in conduct, that prevents the Administrator from effectively administering the scheme or prevents other persons or bodies from taking action under the scheme. I can investigate and bring civil proceedings in relation to alleged non-compliance with the anti-avoidance provisions. The Administrator also has power to bring civil proceedings in relation to alleged contraventions of the anti-avoidance provisions, and such contraventions may also be criminal offences which are a matter for police.

Effective implementation of the scheme

If I am satisfied that there are reasonable grounds to do so, I may investigate whether the scheme is being effectively implemented.

Working collaboratively with the Administrator

Through dedicated and specialist Commission staff in the Registered Organisations Services Branch (ROSB), I provide education, assistance and advice to registered organisations to support them to establish and maintain positive regulatory cultures. I have encouraged the Administrator to access this available support, which will always be available to all registered organisations. Requests for assistance can be sent to regorgs@fwc.gov.au.

As noted above, the Administrator has obligations to report to the Minister about the operation of the scheme for administration at six monthly intervals. While the RO Act as amended and the scheme as made do not expressly require the Administrator to report to me, the Administrator and I have committed to ongoing engagement.

This engagement is intended to assist the Administrator to ensure that the C&G Division functions lawfully and effectively for the benefit of its members and provide an opportunity for sharing of information about:

- any procedural issues identified in key application types, such as applications for enterprise agreement approvals and entry permit applications
- referrals made to other relevant agencies about alleged conduct of C&G Division officers, officials, employees and other related individuals
- relevant information authorised to be disclosed by industry participants about their interactions with the C&G Division and its Divisional branches.

Approach to alleged non-compliance

The administration does not alter the C&G Division's obligations to comply with the RO Act. Similarly, the administration does not alter my position as the independent regulator. I expect the C&G Division and its Divisional branches to comply with their obligations under the RO Act and I will continue to monitor compliance as I do with all registered organisations. Any alleged non-compliance with the RO Act will be responded to consistent with our [Compliance and Enforcement Policy](#). This includes any allegations of non-compliance with anti-avoidance provisions introduced into the RO Act by the Administration Act to prohibit conduct, or involvement in conduct, that prevents the Administrator from effectively administering the scheme or other persons or bodies from taking action under the scheme. Any information I receive which relates to allegations of contraventions of other laws will be appropriately referred to other regulators and law enforcement agencies.

In addition to the complaints procedure established by the Administrator, concerns about the C&G Division can also be reported through a dedicated facility on the Commission's website: [Report a concern about the CFMEU | Fair Work Commission \(fwc.gov.au\)](#).

Working with law enforcement agencies and other regulators

My role extends to regulating compliance with the RO Act. There are a number of other agencies with regulatory and enforcement powers which are relevant to the conduct alleged in relation to the C&G Division. For example:

- The Fair Work Ombudsman (FWO) is the national workplace relations regulator for all industries, enforcing compliance with workplace laws and obligations. The FWO has powers to monitor and investigate non-compliance with the *Fair Work Act 2009*, including in relation to: adverse action, coercion, misrepresentation and disclosure requirements concerning the making of enterprise agreements and the exercise of rights by entry permit holders. The FWO's priority areas include the building and construction industry.

The FWO can receive concerns about the CFMEU and breaches of workplace rights or responsibilities on 13 13 94 or at industrialmatters@fwo.gov.au. The FWO has also established a form for anonymous concerns to be reported about the C&G Division, which can be accessed here: [Report a concern about the CFMEU](#).

- Alleged criminal conduct that has been reported in the media falls outside of my jurisdiction and is a matter for relevant state and federal police services.
- Compliance with work health and safety laws is monitored and enforced separately by each of Australia's state, territory and Commonwealth jurisdictions. Contact details for work health and safety regulators across Australia are available on the [Safe Work Australia website](#).

I share information with other regulatory and law enforcement authorities where I believe it is likely to assist in the administration or enforcement of Commonwealth, State and Territory laws and will continue to do this through the period of the C&G Division administration. Similarly, I welcome information from other regulatory and law enforcement authorities that is relevant to my regulatory responsibilities under the RO Act.

Working with building and construction industry participants

I will maintain ongoing dialogue with industry participants, including employer representatives, contractor representatives, other registered organisations, and building and construction industry peak bodies about what they and their members are observing and experiencing in the building and construction sector.

My role in supporting the Commission

I support the Commission's President in ensuring that the Commission performs its functions and exercises its powers under the FW Act.

Conduct alleged in relation to the making of enterprise agreements in the building and construction industry and the C&G Division administration has led to some changes in

how the Commission performs its functions and exercises its powers under the FW Act. Further information can be found in the President's [Statement – Update on applications for approval of enterprise agreements in the Building and Construction Industry](#), published on 30 July 2024, and [Further update on applications for approval of enterprise agreements in the Building and Construction Industry](#), published on 11 September 2024.

Commission staff are supporting the implementation of changes to the Commission's jurisdiction as a result of the Administration Act. Our operational staff support Commission Members in dealing with applications under the FW Act involving the C&G Division. I am committed to ensuring that this work is appropriately resourced to ensure there are no unnecessary delays while also ensuring that the statutory obligations are satisfied. The Commission continues to engage with the Administrator to identify any procedural issues in key application types, such as applications for enterprise agreement approvals and entry permit applications.

Murray Furlong
General Manager
Fair Work Commission