



## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.159—Alteration of other rules of organisation

### **Health Services Union** (R2013/500)

MR ENRIGHT

MELBOURNE, 30 MAY 2014

*Alteration of other rules of organisation.*

[1] On 23 December 2013, the Health Services Union (the Union) lodged with the Fair Work Commission (FWC) a notice and declaration setting out particulars of alterations to the rules of the Union.

[2] The particulars set out alterations to alterations to rules 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91 and 92 of the rules of the Union, deleted rules 35A and 48A and the inserted new rules 38A and 94.

[3] On 23 April 2014, the Union provided a further declaration setting out the steps which had been taken under the Union's rules to transact the alterations.

### **The objection to the alterations**

[4] On 5 December 2013, before the alterations had been lodged, the General Manager of the FWC received an email from Ms. Jackson, the Union's National Secretary<sup>1</sup>. The email stated, in part:

As National Secretary and a member of the Health Services Union, I wish to be heard in opposition to that application for certification.

I say that the proposed rule changes are contrary to objects and requirements of the Act and should not be certified pursuant to s.159.

Would you kindly confirm that you will arrange a mention of the matter so that a timetable for submissions can be set down.

[5] The General Manager replied to Ms Jackson, undertaking to advise when an application was lodged. On 23 January 2014, the General Manager again wrote to Ms Jackson, advising that the application had been lodged in the FWC, that the matter had been

delegated to me for determination and that the application had not been examined to date. A copy of the application was attached to the reply.

[6] On the same date (23 January 2014) I wrote to Ms Jackson. Amongst other things, I noted that “applications under section 159 of the RO Act are not routinely subject to objection. Nor are they generally dealt with by holding a hearing or a conference.” I then expressed the view that “subsection 657(2) of the Fair Work Act 2009 (the FW Act) allows a hearing to be convened in connection with an application under section 159 of the RO Act”, including applications which were being determined by a person who held a delegation under section 343A of the Fair Work (Registered Organisations) Act 2009 (the RO Act). I noted that I would only have the power to convene a hearing under s.657(2) of the FW Act if it was “necessary or convenient” for the purpose of forming the requisite opinions under section 159 of the RO Act. Finally, I noted that there was nothing in Ms Jackson’s 5 December 2013 email which compelled the conclusion that it was necessary or convenient to hold a hearing to perform my section 159 function in the current matter. Ms Jackson was invited to lodge written submissions about that issue by 31 January 2013.

[7] Ms Jackson obtained an extension of time to lodge that material. An affidavit was lodged on 4 February 2014. For reasons which will become apparent, it is necessary to set out the content of Ms Jackson’s affidavit in some detail.

[8] Ms Jackson asserted:

As a senior HSU official of long standing I have an intimate understanding of the HSU’s culture, including governance culture, as well as its internal political interactions and administrative machinery.<sup>2</sup>

[9] In relation to convening a hearing Ms Jackson submitted, inter alia:

The holding of a hearing in the current circumstances is necessary or convenient for the purposes of the delegate being more thoroughly advised of the issues surrounding the application, and the history of the substantive matters the subject of the application, for the purpose of forming the requisite view.

The holding of a hearing poses no inconvenience to the Commission, the delegate or the applicant. The holding of a hearing has the capacity to more quickly identify the positions of the parties, to allow the Commission to illicit further details more quickly and spontaneously, and hence expedite the process of granting (or rejecting) the application. It is in the interests of the applicant that the application be dealt with expeditiously.<sup>3</sup>

[10] Further, Ms Jackson submitted:

Depending on the matters to be considered, the Commission and the delegate may need to have benefit of the sworn evidence of witnesses in circumstances where the evidence of witnesses can be tested in cross-examination and the credit of witnesses can be assessed. In my view such matters likely arise from the current application by the applicant.<sup>4</sup>

[11] In relation to the alterations objected to, Ms Jackson's comments presented a brief outline of some of her key points, which was an appropriate approach given that my invitation was confined to the issue of whether a hearing should be convened. Ms Jackson's primary concerns were directed towards four aspects of the alterations<sup>5</sup>.

[12] First, Ms Jackson objects to the proposed manner of conducting elections within various branches of the Union. Ms Jackson states that the proposed alterations, if certified, "would re-introduce team-nomination in elections in the three branches formerly included in HSU East."<sup>6</sup>

[13] Ms Jackson continued:

Team-nomination (above-the-line) voting provides an enormous advantage to incumbents...

There is a history of debate within the HSU in which the real motives of many incumbent officials in supporting the above-the-line/ team nomination voting system has been clear.

Both I and other HSU officers and employees had a series of conversations and debates with other HSU officials, including current senior officials involved in the union's decision-making processes regarding electoral changes sought in R2013/500, in which the latter officials' real motives for supporting the team-nomination (above-the-line) voting system, (being to provide incumbents with an electoral advantage) was exposed. In conversation and debate with several officials it has been clear to me that there is an entrenched view within the senior echelons of the HSU (a view that is factually correct) that the team-nomination system affords a major advantage to incumbents and disadvantages either prospective independent candidates or small groups of disaffected members who might be disposed to stand together in elections but lack the resources to organise a full ticket.

To the extent that union officials act to introduce an electoral system for the purpose, wholly or in part, of conferring on them as incumbents an electoral advantage in union elections, this constitutes action for an improper purpose and is beyond power.

...

The removal of above line voting in the three branches by the Administrator was in the context of criticism of the rule in the Temby report and the Administrator considering that its removal would ensure that the Branches would be accountable to and representative of the members and continue to encourage their democratic functioning and control. In its application, the applicant has provided no explanation of the purpose of the proposed electoral rule changes or why they are said to be necessary so soon after the team-nomination system was abolished in the three branches by the Administrator pursuant to a scheme approved by the Federal Court."<sup>7</sup> [footnotes removed]

[14] Secondly, Ms Jackson alleged that “Senior officers of the union have conducted the process of making the rules changes in secrecy, at least as it concerns my having knowledge.”<sup>8</sup>

[15] Thirdly, Ms Jackson asserted that:

Rule 88(e) of the HSU's rules requires that alterations to rule 88 be approved by the Branch Committee of Management of the relevant branch. In his declaration, Chris Brown does not describe any step to have the relevant branch committees of management approve the branch rule changes that are the subject of R2013/500.<sup>9</sup>

[16] Fourthly, Ms Jackson submitted:

The branch rule changes sought in R2013/500 include major changes to the system of financial governance for the NSW, Victoria No 1 and Victoria No 3 Branches of the HSU. As a general proposition, I will object to these changes. These changes, in many cases, reverse the system for the financial governance the demerged branches established by rule changes by The Honourable Michael Moore pursuant to a scheme approved by the Federal Court.

...

in keeping with the request of the delegate that I address only the question of whether a hearing ought be held, I do not address here the questions of merit or law in respect of alteration of rules for the financial governance of the three demerged branches sought in R2013/500 other than to note that the union has provided no reasons for the changes being sought where the changes sought reverse in many cases the provisions put in place by the Honourable Michael Moore.<sup>10</sup>

[17] In conclusion, Ms Jackson submitted:

There is a serious case to be tried that the proposed rule changes:

- Will result in rules that do not comply with s.141(1)(b)(iv)
- Will result in the HSU not meeting the standards set out in s.5(3)(a) and (d).
- Will imposed on members, of the organisation, conditions, obligations or restrictions that, having regard to Parliament's intention in enacting this Act (see section 5) and the objects of this Act and the Fair Work Act, are oppressive, unreasonable or unjust contrary to s.142(1)(c) of the FW(RO) Act.<sup>11</sup>

[18] The Union responded to the issues raised in Ms Jackson's affidavit on 5 February 2014. It is sufficient for the time being to note that convening a hearing was not the Union's preferred course.

[19] After considering the points raised by both Ms Jackson and the Union, I determined that it was appropriate to convene a telephone conference. On 13 February an officer of the FWC wrote to the Union and to Ms Jackson to advise them of my decision and to indicate that the purpose of the telephone conference was to provide Ms Jackson an opportunity:

- to identify each alteration to which objection is raised;
- to provide particulars of each objection, having regard to the provisions of section 159 of the RO Act and the associated provisions of that Act;
- to identify any authorities on which she intends to rely; and
- to foreshadow any evidence she wishes to adduce, whether documentary or otherwise, in relation to any alteration objected to (in this regard I noted Regulation 181 of the Fair Work (Registered Organisations) Regulations 2009).

before establishing a timetable for the disposition of the matter.

[20] The conference was proposed for the week commencing 17 February 2014. The parties were asked to confirm their availability. No response was received by Ms Jackson. Ultimately, difficulties in contacting Ms Jackson meant that the telephone conference did not proceed as planned.

[21] Ms Jackson contacted the FWC on 21 February 2014, requesting further time to prepare for the conference. Following a number of email and telephonic communications with the FWC, Ms Jackson again emailed the FWC on 3 March 2014.

[22] In that email Ms Jackson stated:

I do not have the financial or personal health resources to participate in this matter as though it were a piece of adversarial litigation in which there is an onus on me to establish that the application ought not be approved, through detailed submissions and compliance with timetables that I simply cannot, as a litigant in person, comply with in my present circumstances.

[23] Ms Jackson then made other assertions about whether the National Councillors who voted on the alterations would have done so in an informed manner and made certain allegations about some of the persons involved in transacting the rule changes. She concluded: "If you hold a hearing, I will participate in person and explain to you how and why the changes have the character I have asserted."<sup>12</sup>

[24] In order to ensure Ms Jackson was provided a reasonable opportunity to prosecute her objection, I relisted the matter for telephone conference on 17 March 2014.

[25] At the telephone conference Ms Jackson appeared on her own behalf. Mr Brown, the Acting National Secretary of the Union appeared for the Union. With the consent of the parties, the telephone conference was recorded and transcribed.

[26] During that conference, receipt of Ms Jackson's February affidavit was confirmed.

[27] During the conference, the following exchange took place:

MR ENRIGHT: - - - and can you just give me some sense of what you propose - if a hearing is going to be held, whether that affidavit would suffice for your purposes for the purposes of that hearing or whether you wish to give verbal evidence or call other evidence; and if so, what that other evidence might be.

MS JACKSON: Yes, I would like to call other evidence but also cross-examine witnesses. So, yes, that affidavit - there's other issues as well with those rules that I didn't have the time or the resources to go into.

MR ENRIGHT: So are you

MS JACKSON: That's a starting point. The affidavit I've provided to you is a starting point.

MR ENRIGHT: Yes, I hear what you say. Do you propose to call the witnesses yourself? Can you give us some - in terms of planning or in preparation, can you give us some idea of who those witnesses might be?

MS JACKSON: Not at this stage.

MR ENRIGHT: Do you have any idea of the number of witnesses you might propose to call?

MS JACKSON: One or two.

MR ENRIGHT: It's your submission that this is a matter - and please just confirm - this is a matter that in your view you need to call witnesses in order to properly put your objection, to put it that way. Am I right about that?

MS JACKSON: Yes.<sup>13</sup>

**[28]** And a little later:

MR ENRIGHT: I might just ask my - Ms Jackson, you've said you don't - you haven't said who your other witnesses might be. Do you know or do you have any sense of where they might be, whether they're in Victoria or some other state?

MS JACKSON: Victoria.<sup>14</sup>

**[29]** And in a subsequent exchange by Mr Brown addressing me:

MR BROWN: ... I am concerned that you've got to be making the decision without really knowing the details of what Ms Jackson is actually concerned about. If you had that information available to you, then you would be in a better position to determine whether a hearing is necessary or not, but that's similar to the issues that I've outlined in my correspondence.

MR ENRIGHT: Yes, and I have read that correspondence. Thank you, Mr Brown.

MS JACKSON: Can I just reply to that? My affidavit makes it quite clear, I believe, what issues are at the front of my mind about what I'm concerned about.

MR ENRIGHT: Yes.

MS JACKSON: It's not ambiguous going into this process about what I'm concerned about ...<sup>15</sup>

[30] Having considered what was put during the telephone conference, I determined that it was necessary to convene a hearing to enable Ms Jackson to lead the evidence she alluded to and allow the parties to make submissions in support of their positions. The parties were informed of my decision later that day and the matter was set down for hearing on 7 April 2014.

[31] On 18 March 2014, Mr Brown wrote to the FWC indicating his unavailability on 7 April 2014. The hearing date was vacated and the matter was relisted for hearing on 14 April 2014.

[32] On 11 April 2014, Ms Jackson wrote to me requesting an adjournment of the matter because proceedings in another jurisdiction had been listed for 14 April 2014. A hearing date after 28 April was requested.

[33] Ultimately, I granted Ms Jackson's request for an adjournment and the matter was relisted for 28 April 2014. In so doing, FWC indicated to the parties that:

other than in the case of emergency, no further adjournments will be granted. Unavailability of counsel on the day will not be sufficient to obtain an adjournment. The Delegate is determined to conclude the matter - whether by certifying the alterations in whole or part, or refusing to certify them - before the end of May 2014.<sup>16</sup>

[34] I also requested that the parties advise when they would be in a position to file any witness statements on which they intended to rely. Neither side filed any witness statements in response to that request, albeit Mr Brown had previously indicated that it was unlikely he would lead any witness evidence.

[35] Whilst the hearing was scheduled to commence at 10 a.m. on 28 April 2014, at 9.26 a.m. on that day, I received an email from Ms Jackson. Omitting the formalities, it stated:

I have been very unwell over the weekend and remain unwell. I am unable to attend today's hearing on account of illness.

I note that you informed me when this date was set that I would not be granted any further adjournment because of the tight time line associated with the Union elections. Accordingly (and notwithstanding that the proposed Rule

changes will govern the election if they are approved at any time prior to the day on which the election is called), I am not seeking an adjournment.

I am adapting a written outline of submissions that I was proposing to supplement orally at the hearing. I will have those submissions (and a number of documents I rely upon) to you and Mr Brown by the middle of the day.

I apologise for any inconvenience that this causes.

[36] No medical certificate or other supporting evidence was attached to the email.

[37] When the allotted hearing time arrived, Mr M Irving of Counsel was present on behalf of the Union, along with Mr Brown. No representative was present on Ms Jackson's behalf. Nor were there any other persons in the vicinity of the courtroom who identified themselves as the witnesses Ms Jackson had alluded to in the 17 March 2014 telephone conference.

[38] In the circumstances I called the matter on.

[39] Mr Irving made a submission which included the following:

MR IRVING: My preference is to proceed as follows: firstly, we note Ms Jackson has been given this opportunity to appear. She has put in an affidavit previously and an email setting out her concerns. Some of those concerns are quite specific, and we've addressed those. Some of them are extremely vague and she was given the opportunity to come along and call witnesses, what she intended. Obviously none are going to be called and, indeed, what she proposes in her letter is just put in written submissions.

The way I suggest we proceed is that I address you on a couple of the issues that Ms Jackson has raised and seek to satisfy you about those matters. Ms Jackson will then, according to her email, provide some document to you later on today. Our principal position is you shouldn't read it, that's she's been given her opportunity. She's had a shot. It's done. We need to move on. The fall back position is this, you should read it. If there's anything which causes you concern that makes you think, "Maybe I shouldn't go ahead and certify these rules," then you should call us or you should provide us with the document and give us an opportunity to respond to it.

I prefer not to go ahead and shoot in the dark as to the vague aspects of Ms Jackson's concerns because we really don't know what some of them are. We know what certain of them are and, if we can address them, but there has been some vague reference to section 142 and the suggestion that in some way two nominations are invalid and it's so ambiguous that we really don't know what we're confronting there and we'd prefer not to try to mention arguments against ourselves and confront those. We'd prefer, if there is something of substance that needs to be addressed, then we'd prefer to see the document itself.<sup>17</sup>

[40] I generally accepted Mr Irving's approach, noting that should I accept any material Ms Jackson subsequently filed, I would allow the Union an opportunity to respond to any



concerns it raised. Mr Irving proceeded to address the specific points raised in Ms Jackson's 4 February 2014 affidavit. I will return to the points made by Mr Irving later in this decision.

[41] The documents referred to in Ms Jackson's 28 April 2014 email were not filed that day. Instead, Ms Jackson wrote to the FWC that afternoon stating that work on the "document had been disrupted by an important matter requiring an immediate response today and the need to attend to an essential family responsibility"<sup>18</sup>, that the document was not finished and that it would be emailed before the start of business the next day. An email containing an outline of submissions and facts (outline) and a hyperlink to a number of documents referred to in that outline, was received early in the morning on 29 April 2014. A statutory declaration attesting the truth of the factual assertions in the outline of submissions and facts was sworn on 13 May 2014 and received by the FWC on the same day.

[42] The nub of the argument which Ms Jackson makes in the 29 April 2014 outline can be found in paragraphs 5, 8 - 13 and 45 - 48 of that document. It is of assistance to set them out in full:

5. I deal first with the proposed Rule changes that will allow team tickets and "above the line" voting. I contend that the proposed changes:

(i) will have the practical result that the operation of the Rules does not comply with s.141(1)(b)(iv);

(ii) will result in the HSU not meeting the standards set out in s.5(3)(a) and (d); and

(iii) will impose on members of the HSU, conditions, obligations or restrictions that, having regard to Parliament's intention in enacting this Act (see section 5) and the objects of this Act and the Fair Work Act, are oppressive, unreasonable or unjust contrary to s. 142(1)(c) of the FW(RO) Act.

...

8. In any given case, the contentions in paragraph 5 may be evidenced or established in two different ways:

Category A.

the contention may be evident from the text of the rule change without the need to call evidence other than basic contextual evidence.

Category B

the rule change may appear regular and unremarkable on its face, however, when the objective matrix of facts and circumstances is considered, it is clear that the actual purpose and intent of the rule change (as manifested by the intent of the officials who had the carriage of proposing the rule changes to Council and obtaining Council's approval and the making of the application) mean that, as a matter of practical substance, the change will impose on members of the HSU, conditions, obligations or restrictions "that, having

regard to Parliament's intention in enacting this Act (see section 5) and the objects of this Act and the Fair Work Act, are oppressive, unreasonable or unjust" or otherwise contrary to the requirements of the FW(RO) Act.

9. I say that this is a case in category B.

10. It is vital that you appreciate that I accept that this is not a case falling into category A. This case is not concerned with knocking down the straw man that Mr Brown will undoubtedly seek to erect by having you confine your focus to category A. Let me repeat, I accept that the proposed Rule changes are not problematic on the face of the text, nor with the sort of simple factual context of the sort that motivated Mr Nassios to require a dilution of the voting rights of HSU East Branch when considering the application for rule changes in R2010/35 (branch membership numbers in conjunction with the text of the rule demonstrated that HSU East Branch would have excessive dominance if that Change was not required).

11. I focus on the rule change that will allow for "above the line voting" with "team" tickets.

12. I recognise there is nothing intrinsically offensive about "above the line voting" with team tickets. Again, this is not a case in category A.

13. However, in the particular circumstances of the HSU, with the particular constellation of rules that it has, the re-introduction of "team" tickets and "above the line" voting is inimical to genuine and true democracy. Objectively determined on the evidence, it will in reality serve to entrench the power of people who have been knowingly involved in Williamson's corruption-enabling and facilitating it and/or protecting it.

...

45. The Fair Work Commission is supposed to be concerned with matters of substance rather than matters of form.

46. You are supposed to be concerned with the substantial effects of the proposed rule changes when assessing them against the objects of the act and not the mere form considered by reference to some assumed state of regularity in the union. The substantial effect of the rule changes proposed by the union, in the particular circumstances of this union, will be to undermine genuine democracy in a material way and that is something that is inconsistent with the objects of the FW(RO) Act and should be rejected.

47. Most of the authorities that you may think are applicable will be cases that were dealing with arguments that fell into category A rather than category B. Those authorities are not inconsistent with the approach for which I contend - an approach that is concerned with the "equity, good conscience and substantial merits of the matter". To close your eyes to what I am contending would be to disregard the substantive import of the objects and provisions of the FW(RO) Act on which I rely.

48. My affidavit evidence in the matter before Tracey J will contain material going to the bad faith of other of the current rule changes. I do not expect you to deal with those without that material.

[43] I note paragraphs 16 - 18, 22 - 23 and 25 - 26 of Ms Jackson's outline. Those paragraphs refer to material produced, or to be produced, in two sets of Federal Court of Australia proceedings involving the Union and with which Ms Jackson was, or is, involved.<sup>19</sup>

[44] That material is said to establish much of the "objective matrix of facts and circumstances" which make clear the "actual purpose and intent of the rule change" and which lead, as a matter of practical substance, to the alterations being contrary to the RO Act, per "Category B" referred to above. How to deal with the material referred to in paragraph [42] is a matter to which I shall shortly return.

[45] The document referred to in paragraphs 23, 25, 26 and 48 of the outline is an affidavit that Ms Jackson said she was in the process of finalising, for the hearing before Tracey J<sup>20</sup>. Ms Jackson undertook to "forward my affidavit material to you when it is completed later this week [i.e. by 2 May 2014]<sup>21</sup>. However, that material was not received by the FWC by 2 May 2014.

[46] By 7 May 2014, the Union had lodged submissions in reply to Ms Jackson's outline. That reply dealt predominantly with Ms Jackson's "Category B" objection. A copy of that reply was sent to Ms Jackson, along with a direction that Ms Jackson file a copy of the affidavit sworn for the Tracey J proceedings - as well as some other outstanding material - by the close of business on 9 May 2014. A copy of the affidavit was not filed by the close of business on 9 May 2014. Nor was there any record of any other contact with the FWC during that period.

[47] On 12 May 2014 the FWC again wrote to Ms Jackson, noting a lack of response to the email sent on 7 May 2014 and stating (with one exception which is not presently relevant) that the matter would now be determined on the basis of material previously lodged<sup>22</sup>. Ms Jackson replied on 13 May 2014. Inter alia, she stated:

I remind you that the Delegate is not presiding over an adversarial inter-parties hearing. He is exercising a statutory power and must be satisfied of certain matters. It is not for me to make out a case. I have raised various matters of substance. The Delegate's obligation to consider those matters has been activated. The factual material in my submission and its attachments is sufficient to make out the necessary factual foundation for my primary argument - unless the Delegate rejects my factual contentions as unreliable (and again I would note that I have a pretty good public track record on not making allegations unless they can be shown to be true)<sup>23</sup>

and

My affidavit material has not been completed because the HSU applied to amend their statement of claim in a manner that would force an adjournment... The Federal Court proceeding was adjourned and a new timetable ordered. I

should not be obliged in this matter to disclose my affidavit material to Mr Brown before all the Union evidence in chief has been filed in that proceeding.

I object to your reliance on Mr Brown's affidavit in the absence of my affidavit material... if you wish to rely upon Mr Brown's affidavit, you should adjourn R500/2013 until after the Union's final evidence in chief in the Federal Court has been filed.<sup>24</sup>

[48] In light of Ms Jackson's objection, I have not considered the affidavit sworn by Mr Brown for the proceedings currently before Tracey J in the Federal Court of Australia.

[49] I have considered whether the matter should be further adjourned whilst those Federal Court proceedings continued.

[50] As noted in paragraph [33] above, both the Union and Ms Jackson have been on notice for some time that I was determined to conclude the matter before the end of May 2014. Any alterations certified in the current matter would take effect on the date of certification<sup>25</sup>. Many of the present alterations, including a number of those objected to, pertain to the manner in which elections in the Union will be conducted. Generally, the rules in force on the date that nominations open are the rules that apply in relation to that election<sup>26</sup>. Nominations in the next scheduled elections in the Union (and its branches) are due to open in early June 2014.

[51] On the one hand, the Union's stated intention in transacting the alterations has been that they should apply in relation to the regular elections scheduled to commence in the second half of 2014<sup>27</sup>. I am reluctant to frustrate the Union's stated intention to enable largely unrelated proceedings to occur in another jurisdiction.

[52] On the other hand, Ms Jackson must be afforded procedural fairness which includes an opportunity to put her case.

[53] On balance, I decided not to grant an adjournment but to instead determine the matter without recourse to either Mr Brown's affidavit or to the affidavit Ms Jackson intends to swear for the Federal Court proceedings before Tracey J. In my view, the chronology above demonstrates that Ms Jackson has been afforded a reasonable opportunity to put her case, including a reasonable opportunity to lead witness evidence in support of her assertions and to allow that evidence to be tested by cross examination. As Deane J stated in *Sullivan v Department of Transport*:

... it is important to remember that the relevant duty of the Tribunal is to ensure that a party is given a reasonable opportunity to present his case. Neither the Act nor the common law imposes upon the Tribunal the impossible task of ensuring that a party takes the best advantage of the opportunity to which he is entitled [Also see Gaudron J in *Re: Association of Architects of Australia; Ex parte Municipal Officers Association of Australia* [1989] HCA 13; (1989) 63 ALJR 298 at 305.]<sup>28</sup>

[54] Therefore, I have not considered paragraphs 16, 17, 18, 23 and 24 of Ms Jackson's outline.

[55] I turn to the affidavit referred to in paragraph 22 of Ms Jackson's outline. The FWC confirmed with Ms Jackson that the reference to "1 July 2012" is a typographical error; the relevant date is supposed to be 12 June 2012<sup>29</sup>.

[56] That affidavit was sought to be tendered in proceedings in the Federal Court of Australia before Flick J in 2012.<sup>30</sup> Attempts to have it included in the Court Book in those proceedings were apparently objected to on a number of grounds and the application to include it in the Court Book was ultimately withdrawn<sup>31</sup>. The affidavit was the subject of some adverse comment by Flick J<sup>32</sup>. Clearly, its content has never been tested. In the circumstances of this matter I attach little weight to its contents, and those of the accompanying attachments.

### **Determination of the alterations**

Against the background set out above, I now turn to the function conferred by s.159 of the RO Act.

[57] Section 159 relevantly states:

159 Alteration of other rules of organisation

(1) An alteration of the rules (other than the eligibility rules) of an organisation does not take effect unless particulars of the alteration have been lodged with the FWC and the General Manager has certified that, in his or her opinion, the alteration:

- (a) complies with, and is not contrary to, this Act, the Fair Work Act, modern awards and enterprise agreements; and
- (b) is not otherwise contrary to law; and
- (c) has been made under the rules of the organisation.

(2) Where particulars of an alteration of the rules (other than the eligibility rules) of an organisation have been lodged with the FWC, the General Manager may, with the consent of the organisation, amend the alteration for the purpose of correcting a typographical, clerical or formal error.

(3) An alteration of rules that has been certified under subsection (1) takes effect on the day of certification.

[58] In addition, Regulation 126 of the Fair Work (Registered Organisations) Regulations 2009 sets out procedural requirements in relation to an application for certification of rule alterations.

[59] On the information contained in the notice, the supplementary declaration provided by Mr Brown on 23 April 2014 and the extract from the Union's website which accompanied Mr Brown's initial declaration, I am satisfied that the requirements of Reg 126 have been complied with and also that the alterations have been made under the rules of the organisation.

**[60]** I make the following comments about the transaction of the rule alterations.

**[61]** First, I note that the rule alterations were transacted by the Union's National Council. Ms Jackson suggested on a number of occasions that National Council Delegates voted as blocs, or on the basis of directions given to them<sup>33</sup>. Allied to this suggestion was an assertion that the National Council Delegates did not properly comprehend the matters on which they were voting<sup>34</sup>. Although not clearly articulated, it seems I am being asked to conclude that the votes cast in favour of the motions to alter the rules were not genuine. That was so either because the votes were not freely cast or because the National Council Delegates did not make informed decisions. In other circumstances, flaws such as these have compromised the validity of a vote<sup>35</sup>.

**[62]** There is no evidence that the Delegates were coerced into voting in a certain way. Ms Jackson points to rule 54(j) of the Union's rules. Rule 54(j) allows a Branch Committee to instruct its National Council Delegates how to vote. Ms Jackson did not direct me to case law which states that a rule of this nature is ultra vires. Nor am I aware of any. An examination of the rules of organisations which are presently registered under the RO Act indicates that a number of organisations have rules in which the votes of branch based delegates to national committees may be directed by the branch. In any event, no evidence was presented that any Branch Committee exercised its power under Rule 54(j) in connection with the relevant resolutions. I am not prepared to conclude that the National Council Delegates did not freely vote to approve the resolution to alter the rules.

**[63]** In response to Ms Jackson's assertion that the National Council Delegates did not comprehend, or were ill informed, about the alterations, Mr Irvine made submissions at the hearing on 28 April 2014<sup>36</sup>. Those submissions went to the process which preceded the National Council meeting where the alterations were transacted. Ms Jackson did not present any evidence that impugned that process notwithstanding she had foreshadowed that she would present witnesses who could do so. Further, it appears that Ms Jackson was involved in that process, if only by correspondence. I am satisfied that the process undertaken by the National Council<sup>37</sup> meant that its members were sufficiently apprised of the alterations to make an informed decision when the time to vote arrived.

**[64]** Ms Jackson's attack on the manner in which the alterations were transacted must fail.

**[65]** The second issue I propose to address arises from an assertion Ms Jackson made in her 4 February 2014 affidavit. At paragraph 19, Ms Jackson asserts:

To the extent that union officials act to introduce an electoral system for the purpose, wholly or in part, of conferring on them as incumbents an electoral advantage in union elections, this constitutes action for an improper purpose and is beyond power.

**[66]** I accept that an alteration made for an improper purpose might be found to be beyond power. However, in this case there is insufficient evidence to support such a conclusion. I have already commented on some of the material in Ms Jackson's outline. The remaining portion of the outline material has not been tested. It is general in nature rather than detailing specific conversations, or other events, to which Ms Jackson was privy and which would illustrate impropriety of the action. Ms Jackson was provided with the opportunity to call other persons involved in the process of changing the rules however those witnesses were

neither identified nor called to give evidence at the opportunity provided by FWC. The contentions of fact in Ms Jackson's affidavit are similarly untested. In the circumstances, I am not prepared to give Ms Jackson's evidence determinative weight. This attack on the rule altering process has not been made out. It must also fail.

[67] Finally, Ms Jackson suggests that "Senior officers of the union have conducted the process of making the rule changes in secrecy, at least as it concerns my having knowledge... I have written repeatedly to Chris Brown... seeking access to National Executive records but these requests have been ignored"<sup>38</sup> I accept that given the office Ms Jackson holds, this allegation, if made out, would be a serious matter.

[68] The Union responded to this point during the 28 April 2014 hearing<sup>39</sup>. I do not intend to set out that response. Suffice to say, the actions attributed to Ms Jackson suggest she was aware of the alterations and to some extent, involved herself in the process.

[69] Ms Jackson was forwarded a copy of the transcript of the 28 April 2014 hearing. No response to the points made by the Union was received. In my view, Ms Jackson's complaint in paragraph [67] above is without substance.

[70] I turn next to the appropriate approach in determining whether the alteration complies with, and is not contrary to, the RO Act, the Fair Work Act, modern awards and enterprise agreements and is not otherwise contrary to law.

[71] In my view, the correct approach to interpreting the rules of organisations commences by applying the ordinary principles of legal construction<sup>40</sup>. However, "the nature of the document and its purposes are [also] relevant considerations"<sup>41</sup>. Regard should therefore be had to the fact that the rules will have been "drawn, more likely than not, by union officials more familiar with the practical affairs of industry than with the niceties or subtle nuances of language"<sup>42</sup>.

[72] It follows that when interpreting the proposed rules of the Union as a step towards fulfilling the task mandated by s.159(1)(a) and (b), I must consider the text of the alteration in the context of the rule being changed and the rules as a whole, albeit I should be aware that a rule may be drafted in a less refined manner than a statute. This approach is generally consistent with what Ms Jackson terms "Category A" in paragraph 8 of her outline.

[73] I do not believe that the enquiry Ms Jackson advocates in "Category B" provides the correct approach to the task contained in s.159 of the Act. Even if I am wrong in that conclusion, the materials provided by Ms Jackson did not establish a sufficient evidentiary basis to embark on a "Category B" type of enquiry in this matter.

[74] Although not bound by the rules of evidence, any findings of fact I make en route to reaching my decision must be based on logically probative evidence. In the current matter I:

- attach little weight to the 12 June affidavit described in paragraphs [55] and [56] above;
- note the fact that the foreshadowed affidavit referred to in paragraph 25 of Ms Jackson's outline was ultimately not produced;

- accepted Ms Jackson’s objection to me considering the affidavit Mr Brown prepared for the Tracey J proceedings; and
- note the evidence contained in Ms Jackson’s outline and 4 February 2014 affidavit untouched by the above points is largely of a general nature and, importantly, untested.

[75] In the circumstances, there is an insufficient evidentiary basis to make the findings of fact Ms Jackson contends. As a result, even if it were open to me to conduct an enquiry of the type urged by Ms Jackson, it would be unproductive to do so in this instance.

[76] I turn to Ms Jacksons specific objections to the alterations.

[77] Ms Jackson states that:

Rule 88(e) of the HSU's rules requires that alterations to rule 88 be approved by the Branch Committee of Management of the relevant branch. In his declaration, Chris Brown does not describe any step to have the relevant branch committees of management approve the branch rule changes that are the subject of R2013/500.<sup>43</sup>

[78] Similar circumstances arose in relation to Rule 88 of the unions rules in September 2013. In that instance, Rule 83 became Rule 88. On that occasion I stated:

Rule 75 outlines the general rule altering procedure for the Union; however, existing rule 83 contains an additional rule altering procedural requirement. Rule 83(e) states that rule 83 can only be ‘altered, amended or revoked by a resolution passed by not less than 70% of all members of Branch Committee’.<sup>3</sup> In the notification before me, rule 83 has been renumbered due to the rearranging of the rules within Part E. In order to effect this renumbering, the Union has removed the rule and reinserted it into the rule book in its new location. The wording of the rule, excluding four internal references to ‘Rule 83’, remains unchanged and as such exactly replicates the current terms, language and obligations contained within rule 83. In my opinion, despite the consequential renumbering of rule 83 due to the substantial alteration of the other elements of Part E, rule 83 itself has not been altered. I am therefore satisfied that the additional rule altering procedures contained in rule 83(e) do not attract.<sup>44</sup>

[79] In my view the current alteration is indistinguishable from that under consideration in September 2013. Ms Jackson’s attention was drawn to my earlier decision on 13 February 2014<sup>45</sup>. No attempt has been made to distinguish the earlier decision or to argue it was wrongly decided. I therefore apply it in the present matter. Ms Jackson’s objection must fail.

[80] I turn next to the alterations concerning the manner in which elections would be conducted in certain Branches, particularly to what is generally referred to as “above the line voting”, “team nominations” or “team tickets”<sup>46</sup>. The alterations reintroduce team nominations in the Branches which for a time comprised the HSUEast Branch. Ms Jackson has objected to this alteration on a number of bases.



**[81]** Broadly, team nominations allow a group of people to form a team and nominate, as that team, for number of offices within an organisation or branch. Alternatively, a person may nominate for an individual office. If a ballot is required in an election, a ballot paper is prepared. If team tickets are allowed the ballot paper will contain both team tickets and individual nominees. Frequently, although not always, the ballot paper is divided into two sections, similar to a Senate ballot paper. If so, teams will be grouped together in one section and individuals grouped together in the other. A voter may vote for individual candidates for the relevant offices or may vote for a team. Choosing the latter option means that the team member associated with each office automatically received a vote. Team nomination procedures exist in one form or another in the rules of a number of organisations registered under the RO Act. Team nomination provisions presently exist in the rules of the Union. They previously existed in the affected branches. They were not reinstated by the Administrator once the HSUEast Branch was demerged.

**[82]** Ms Jackson concedes that:

I accept that the proposed Rule changes are not problematic on the face of the text<sup>47</sup>

and

I recognise there is nothing intrinsically offensive about "above the line voting" with team tickets.<sup>48</sup>

**[83]** I agree with the concessions made by Ms Jackson. There is not, in my view, anything intrinsically offensive about "above the line voting" with team tickets. I am not aware of any case law to the contrary in relation to an organisation registered under the RO Act. I also agree with Ms Jackson that the proposed Rule changes are not problematic on the face of the text. However, that is not the end of the matter

**[84]** In paragraph [42] above, I set out an extract from Ms Jackson's outline. In part, it described two approaches to my task under s.159, "Category A" and "Category B". Ms Jackson made her concession on the basis that "Category A" did not apply to my present task but "Category B" did. In Ms Jackson's view, the fact that the text appeared benign on its face was not determinative because, in line with "Category B", "when the objective matrix of facts and circumstances is considered... the actual purpose and intent of the rule change ... mean that, as a matter of practical substance, the change"<sup>49</sup> would be contrary to the Act.

**[85]** In paragraphs [72] and [73] I described what, I believe, is the correct approach to the task under s.159(1)(a) and (b) of the RO Act. As noted, I am not attracted to the approach Ms Jackson contends for in Category B.

**[86]** I note paragraphs 34, 36 and 37 of Ms Jackson's outline. I am prepared to assume, without making any finding as to the veracity of Ms Jackson's evidence, that one possible consequence of rules that make provision for team nominations could be that incumbents are favoured in elections.

**[87]** However, the mere fact that the manner of election might confer an advantage on an incumbent is not sufficient to render the rules contrary to the FW Act, or to law, where the

rules are “not problematic on the face of the text”. I agree with Delegate Carruthers who recently stated:

It is not enough that a rule is capable of being misused in such a way as to operate unreasonably. Nor is it enough that a rule might give rise to an unintended, unreasonable consequence. To be incapable of certification under s.159, the rule must be oppressive, unreasonable or unjust on its face. I do not, however, consider that the proposed rules or any of them are oppressive, unreasonable or unjust on their face. If a rule is applied in a way which produces an oppressive, unreasonable or unjust result, relief is available to an affected member at that time.<sup>50</sup>

**[88]** Ms Jackson also relies on certain recommendations contained in a “Final Report on HSUEast” produced by Ian Temby QC and Dennis Roberston FCA.<sup>51</sup> It appears that the report recommended against the reintroduction of above the line voting. This recommendation was accepted by the Administrator when drawing rules of the Branches of the Union which were reconstituted by the Federal Court upon the abolition of the HSUEast Branch.

**[89]** As I understand Ms Jackson’s submission, she believes the reintroduction of team nominations and above the line voting would lead to a less democratic manner of election than is currently the case and that I should refuse the alterations on that basis. This submission is misconceived. I have already stated that there is nothing on the face of the proposed rules that render them contrary to the Act. The fact that it might be argued that one formulation of a rule furthers Parliament’s intention, in enacting the RO Act<sup>52</sup>, to a greater or lesser degree than another formulation is no reason to refuse certification, so long as the rule is capable of certification. There is a long line of authority which emphasises the “absence of any general authority conferred upon a Court to supervise the content of the rules of an organisation to impose what it may perceive to be a more “preferable, desirable or ideal” rule”<sup>53</sup>. Consistent with this authority, I have previously stated that “it is not the function of the... Delegate under section 159 to put into effect its own opinions as to what is desirable in the way of union rules and union management.”<sup>54</sup> Nothing has been put in this matter which would cause me to resile from that view. I reject Ms Jackson’s objection to the above the line or team nomination related alterations to the rules.

**[90]** In her 4 February 2014 affidavit, Ms Jackson referred to alterations which she says “include major changes to the system of financial governance for the NSW, Victoria No 1 and Victoria No 3 Branches of the HSU. As a general proposition, I will object to these changes. These changes, in many cases, reverse the system for the financial governance the demerged branches established by rule changes by The Honourable Michael Moore pursuant to a scheme approved by the Federal Court.”<sup>55</sup> Ultimately that objection was never particularised, except in so far as it is said to reverse changes put in place by the Administrator.

**[91]** Two points should be made. First, there is nothing on the face of the relevant rules which would cause them to be incapable of certification under s.159 of the Act. That is sufficient to dispose of Ms Jackson’s objection “as a general proposition”. Secondly, to the extent that Ms Jackson’s opposition to the alterations is prefaced by the belief that the rules as altered are less desirable than the current rules, the conclusions in paragraph [89] above are apposite. Ms Jackson’s objection cannot be sustained.

[92] In summary, I reject each of the objections that Ms Jackson raised in relation to the alterations.

[93] Independent of Ms Jackson's objections, the FWC examined the alterations in order to assist me to form a view about whether the rule changes could be certified under s.159 of the Act. A report setting out the results of that examination was forwarded to the Union and Ms Jackson on 11 April 2014. Each party was invited to respond to the issues raised

[94] The union responded by written submission on 24 April 2014. On 13 May 2014, Ms Jackson indicated that "I do not have the resources or the capacity to address the matters on which my submission was invited in relation to issues raised by FWC with the HSU... I will trust the delegate to scrutinise the HSU's response with an appropriately critical eye."<sup>56</sup>

[95] As a result of the HSU's response, various issues raised by the FWC were resolved although other matters warrant further consideration.

[96] Rule 2(A)(g) forms part of the eligibility rules of the organisation; see the definition of "eligibility rules" in section 6 of the RO Act. This alteration can only be given effect via an application under section 158 of the RO Act. I have no power to certify the alteration.

[97] Proposed Rule 7(b) provides that on becoming or remaining a member of the Union, each member agrees that he or she appoints the Union as his or her agent for the purpose of negotiating and agreeing to terms and conditions of employment, subject to limited exceptions including any conferred by statute.

[98] The Union was informed that a rule similar to Rule 7(b) was considered by a Full Bench of the Australian Industrial Relations Commission under a legislative precursor to the RO Act. The Full Bench held that the rule was inconsistent with the legislation then in force. It directed the Industrial Registrar to refuse certification of the alteration<sup>57</sup>. FWC raised the concern with the Union and in response to an invitation to comment, the Union merely replied "Agreed"<sup>58</sup>.

[99] I have taken that response to be a concession that the Rule is not distinguishable.

[100] In my view, the appointment mechanism under proposed Rule 7(b) is inconsistent with the scheme of Division 3 of Part 2-4 of Chapter 2 of the FW Act. It is inconsistent to an extent sufficient to render it contrary to that Act. I must therefore refuse certification of that alteration.

[101] There is a tension between proposed Rule 10(k) and the combined operation of proposed rules 10(l), 10(m), 11(k) and 12(a).

[102] The inconsistency between these provisions may cause uncertainty in the minds of members as to their rights and obligations to such a degree that it leads rule 10(k) to impose an obligation or condition that was oppressive, unreasonable or unjust. That would lead to Rule 10(k) being contrary to subsection 142(1)(c) of the RO Act.

[103] Although the Union did not fully accept the construction of the rules in question provided by the FWC, it did concede that the "rules are not a perfect model of clarity".<sup>59</sup> It

continued “The proposed solution is that consent is not given to 10(k). That sub rule is unnecessary and is likely to give rise to an ambiguity otherwise absent in the scheme.”<sup>60</sup>

**[104]** I agree with that analysis. In my view the ambiguity is apt to cause uncertainty to a degree which causes the rule to fall foul of s.142(1)(c) of the RO Act. Given the sub rule is unnecessary, the alteration can be severed from the remainder of the alterations. I refuse to certify the alteration to Rule 10(k).

**[105]** Proposed Rule 15(b)(i) permits a newly created office to be filled other than by election. It is therefore contrary to the RO Act. It is not possible to fill a vacant office using the casual or extraordinary vacancy provisions of the rules unless the office has first been filled, in relation to each term of office, by election. That is because until the office has been filled, it cannot be vacated and therefore cannot be filled as a causal vacancy<sup>61</sup>. I note that the Union did not dispute this analysis.<sup>62</sup>

**[106]** Because there is no power to “blue pencil” the offending part of Rule 15(b)(i), certification of the whole of that rule change must be refused.<sup>63</sup>

**[107]** Rule 12(c) acknowledges that the Branch Committee of Management may waive a member’s annual contribution or any levy. Waiver in this context can only mean abandon or not claim those moneys. As a result, the condition precedent to becoming unfinancial set out in Rule 12(a) does not arise. It follows that a member whose annual contribution or levy has been waived must be a financial member and entitled to assume they hold the full rights of membership. This result is confirmed by Rule 12(c)(i).

**[108]** Consequently, Rule 12(c)(ii) imposes a condition or restriction on members covered by Rule 12(c) which does not pertain to other financial members. The condition or restriction is the inability to nominate for or hold office.

**[109]** The FWC invited the Union to comment about whether the condition or restriction imposed by Rule 12(c) was oppressive, unreasonable or unjust within the meaning of subsection 142(1)(c) of the RO Act. The FWC was concerned the rule may be oppressive, unreasonable or unjust both because it limits the rights of some financial members but not others and also generally due to the restrictions it places on financial members of the union.

**[110]** The Union did not agree with the proposition advanced by the FWC. It stated:

First we start with the contention that “waive in this context can only mean abandon or not claim those moneys”. That is true, but it is a waiver subject to a condition. That is, the Union will agree not to have the contributions or levy recovered from the member if the member agrees to the condition set out in 12(c)(ii). Any waiver, statutory or contractual, can be subject to a condition. The real question as you’ve isolated is whether the condition (being the restriction on the ability to nominate or hold office) is reasonable or unjust.

In assessing its reasonability or injustice one of the relevant matters is that identified in Rule 11(d) – that any waiver that occurs only happens “at the member’s request”. The member is specifically requesting the waiver and, given the deemed knowledge of the rules, is specifically agreeing that he or she will not nominate for or hold any office.

The evil that is sought to be avoided by 12(c)(ii) is this: a Branch committee of management agrees to waive the fees for all of its mates, or indeed all of its members, so that they can continue to stand for re-election even though they are not paying any Union fees. That would be unreasonable. The condition imposed by 12(c)(ii) on such a waiver is reasonable: if a member wants to hold office in this Union then he or she has to pay Union fees. If a member is too impecunious (or there is some special circumstance which justifies the waiver of your fees), then, if the member requests it, those fees can be waived. But the price that is paid is that the person does not hold office.

When drafting this rule one problem considered was whether a maleficent BCOM could waive the fees of a potential electoral rival and thereby render a challenger unable to stand. To avoid this problem rule 11(d) provides that waiver can only occur on request.<sup>64</sup>

[111] The submissions of the Union are not without merit. However, I am concerned that the rule which allows a member to seek waiver and the rule which sets out the repercussions of any waiver which are granted are not to be found together. There is no obligation for the Union to inform a member who is contemplating making a waiver application, what the full consequence will be. It is insufficient to rely on a member's deemed knowledge of the rules. In my view, if the rules of the Union are going to afford different rights to one class of financial members, based on the member's request, then this should be absolutely clear to any member contemplating making a waiver request. This is not so if the rule facilitating a waiver process and the rule dealing with the consequences are not side by side and there exists no other provision in the rule requiring the member to be made aware of the restrictions that follows a successful application. This is amplified where the right disturbed is one as fundamental as the right to nominate for, or hold office.

[112] For the reasons foreshadowed in paragraph [109] I refuse to certify the alteration to Rule 12(c)(ii). I note that I would be prepared to consider an application if an alteration such as 12(c)(ii) was accompanied by another rule requiring the Union to draw attention to all of the consequences of a successful waiver application, before such application was made.

### **Correction of typographical, formal or clerical errors**

[113] On 24 April the Union's Acting National Secretary gave consent, under subsection 159(2) of the *Fair Work (Registered Organisations) Act 2009*, for the Delegate to make various amendments to the alterations for the purpose of correcting typographical, clerical or formal errors. Accordingly the following corrections have been made:

- The first appearing instance of the word "ceases" in the fourth line of proposed Rule 10(j) will be changed to 'cease';
- The word "consists" at the conclusion of proposed Rule 11(a) will be changed to 'consist';
- The reference to Rule 79 contained at the end of Rule 22(e) will be changed to Rule 78;

- The word “and” in Rule 80(b)(iii) will be changed to ‘an’; and
- The references in Rule 87(i)(vi) should be to ‘87(a), 87(e)(i) and 87(e)(ii)’

**[114]** Other than the exceptions set out above the alterations, in my opinion, comply with and are not contrary to the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, modern awards and enterprise agreements, and are not otherwise contrary to law. I certify accordingly under subsection 159(1) of the *Fair Work (Registered Organisations) Act 2009*. For the reasons above I refuse to certify the alterations to Rules 2(A)(g), 7(b), Rule 10(k), Rule 12(c)(ii) and Rule 15(b)(i)

DELEGATE OF THE GENERAL MANAGER



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<sup>1</sup> I note that throughout the period that this matter has been under consideration, Ms Jackson has not been performing the role of National Secretary. I understand Ms Jackson has been absent from the position due to illness. Mr Brown, the Union’s Senior National Assistant Secretary, has been acting in the office of National Secretary during this time.

<sup>2</sup> K. Jackson affidavit of 4 February 2014; paragraph 5.

<sup>3</sup> Ibid; paragraphs 8 - 9.

<sup>4</sup> Ibid; paragraph 10

<sup>5</sup> Although Ms Jackson indicated that concentrating on those aspects of the alterations did not mean that she had no objection to other prospective changes included in application - see paragraph 14 of the 4 February 2014 affidavit.

<sup>6</sup> K. Jackson affidavit of 4 February 2014; paragraph 15

<sup>7</sup> Ibid at paragraphs 16 - 19, 21 - 22

<sup>8</sup> Ibid at paragraph 23

<sup>9</sup> Ibid at paragraph 24.

<sup>10</sup> Ibid at paragraphs 25, 31

<sup>11</sup> Ibid at paragraph 30

<sup>12</sup> Email from K. Jackson to Delegate Enright dated 3 March 2014, sixth paragraph.

<sup>13</sup> Transcript of telephone conference on 17 March 2014; paragraphs 34 - 42

<sup>14</sup> Ibid; paragraphs 50 - 51

<sup>15</sup> Ibid; paragraphs 71 - 75

<sup>16</sup> Correspondence sent by the FWC at my direction on 11 April 2014; fourth paragraph.

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- <sup>17</sup> Transcript of hearing on 28 April 2014; paragraphs 94 - 96
- <sup>18</sup> Email from K. Jackson to M. Elliott dated 28 April 2014; first paragraph
- <sup>19</sup> NSD 621 of 2012 and NSD 735 of 2012 before Flick J and VID1042/2013 and NSD1601/2013 which are currently before Tracey J
- <sup>20</sup> Outline paragraph 23; VID1042/2013 and NSD1601/2013 refer
- <sup>21</sup> Outline paragraph 25.
- <sup>22</sup> Although the Statutory Declaration referred to in paragraph [41] of this decision was ultimately accepted notwithstanding it was not lodged when required
- <sup>23</sup> Email from K. Jackson to M. Elliott dated 13 May 2014; fifth paragraph
- <sup>24</sup> Ibid; sixth and seventh paragraphs
- <sup>25</sup> See s.159(3) of the Act..
- <sup>26</sup> See for instance: *Beeson v Blayney* - 8 FLR 292; *Friend v Barnes* - 15 FLR 184; *Egan v Maher* - 35 FLR 197
- <sup>27</sup> See for instance paragraph h) of the Declaration given by C. Brown on 23 April 2014.
- <sup>28</sup> (1978) 20 ALR 323 at 343
- <sup>29</sup> Email from K. Jackson to M. Elliott dated 29 April 2014; third paragraph
- <sup>30</sup> NSD 621 of 2012 and NSD 735 of 2012
- <sup>31</sup> *Brown v Health Services Union* [2012] FCA 644 (21 June 2012); paragraph 183.
- <sup>32</sup> Ibid.
- <sup>33</sup> See for instance Ms Jackson's Outline at paragraphs 14, 15, 19; Email from Ms Jackson to Mr Enright dated 3 March 2014, fourth paragraph
- <sup>34</sup> See for instance Ms Jackson's Outline at paragraphs 14, 19; 28(i); Email from Ms Jackson to Mr Enright dated 3 March 2014, fourth paragraph
- <sup>35</sup> See for instance *Print T2319*; *Ross VP, Williams SDP, Smith C*; 19 October 2000 at paragraph 20; *Print L9066, Ross VP*, 3 February 1995, [2011] FWA 1282; *Roe C*, 1 March 2011 at paragraph 16;
- <sup>36</sup> Transcript of hearing on 28 April 2014; paragraphs 108 - 136
- <sup>37</sup> See particularly *ibid*; paragraphs 126 - 129.
- <sup>38</sup> K. Jackson affidavit of 4 February 2014; paragraph 23
- <sup>39</sup> Transcript of hearing on 28 April 2014; paragraphs 115 - 118
- <sup>40</sup> See for instance *R v Aird*; *Ex parte Australian Workers' Union* (1973) 129 CLR 654 at 659.
- <sup>41</sup> *Interpreting Trade Union Constitution Rules*; *J W Shaw QC*; (1988) 62 Australian Law Journal 690
- <sup>42</sup> *R v Aird*; *Ex parte Australian Workers' Union*; *Opcit*
- <sup>43</sup> K. Jackson affidavit of 4 February 2014; paragraph 24
- <sup>44</sup> [2013] FWCD 5384; Mr Enright; 18 September 2013; paragraph [7]
- <sup>45</sup> Email from M. Elliott to K. Jackson and C. Brown dated 13 February 2014; final paragraph
- <sup>46</sup> K. Jackson affidavit of 4 February 2014; paragraphs 15 - 16; outline paragraphs 11, 30 - 43.
- <sup>47</sup> Outline paragraph 10
- <sup>48</sup> *Ibid* paragraph 12
- <sup>49</sup> Outline paragraph 8
- <sup>50</sup> [2012] FWAD 6715; Ms Curruthers; 14 August 2012 citing instance *O'Sullivan v Australian Workers Union* (1938) 39 CAR 323; *Hay v Australian Workers Union* (1944) 53 CAR 674; *Allshorn v Stapleton* (1984) 4 FCR 326 and later referring to ss. 163 - 164A of the Act
- <sup>51</sup> K. Jackson affidavit of 4 February 2014; paragraph 14, Outline at, for instance, paragraph 42.
- <sup>52</sup> See s.5 of the RO Act
- <sup>53</sup> *Brown v Health Services Union* [2012] FCA 644; Flick J; 21 June 2012 at paragraph 86. I adopt his Honour's analysis of the authorities contained in paragraphs 82 - 86 of that judgement.
- <sup>54</sup> [2013] FWCD 5384; Mr Enright, 18 September 2013; paragraph 7.
- <sup>55</sup> K. Jackson affidavit of 4 February 2014; paragraph 25
- <sup>56</sup> Email from Ms Jackson to Mr Elliott dated 13 May 2014, final paragraph

<sup>57</sup> Print Q6814; 29 September 1998; pages 9 - 11

<sup>58</sup> Submission from the HSU dated 24 April 2014; paragraph 2

<sup>59</sup> Ibid; paragraph 3

<sup>60</sup> Ibid; paragraph 3

<sup>61</sup> See *Vardon v O'Loughlin* [1907] HCA 69; (1907) 5 CLR 201; 20 December 1907

<sup>62</sup> Submission from the HSU dated 24 April 2014; page 3

<sup>63</sup> See *Stapleton v Australian Theatrical Amusement Employees Association*; [1983] FCA 209; 50 ALR 293 at 301 (31 August 1983)

<sup>64</sup> Submission from the HSU dated 24 April 2014; paragraphs 10 - 13.



**From:** [REDACTED]  
**Sent on:** Monday, December 23, 2013 3:09:00 PM  
**To:** [Orgs](#)  
**CC:** [REDACTED]  
**Subject:** HSU application to alter the rules of the HSU

Dear General Manager

Please find attached our application to alter the Rules of the HSU. The application includes:

- Form 59 – Application for Leave to alter rules
- Declaration by Chris Brown outing the steps taken alter the rules of the HSU.
- Schedule A of the Declaration of Chris Brown. Schedule A is the Rules that were voted on, endorsed and approved by the HSU's National Council.
- Schedule B of the Declaration of Chris Brown. Schedule B is the email to Delegates to National Council including the Notice of Meeting, Conference Program, National Council Meeting Agenda and Proposed Rule changes to be considered by Council.
- Schedule C of the Declaration of Chris Brown. Schedule C is the Notice of Meeting.
- Schedule D of the Declaration of Chris Brown. Schedule D is the Agenda of the National Council Annual Meeting.
- Schedule E of the Declaration of Chris Brown. Schedule E is the Proposed Rules to be considered by National Council that were emailed on 21 October 2013.

If you or one of your Officers require further information or clarification please do not hesitate to contact Mr Chris Brown, Acting National Secretary, or myself.

Your faithfully

[REDACTED]

**DECLARATION OF AUTHORISED OFFICER IN ACCORDANCE WITH REGULATION  
126 Fair Work (Registered Organisations) Regulations 2009  
ALTERATION TO OTHER RULES OF ORGANISATIONS**

I, Chris Brown, of Suite 1 Level 3, 377 Sussex Street, Sydney, in the New South Wales, am the Senior National Assistant Secretary and currently the Acting National Secretary of the Health Services Union.

I am authorised to give this notice of particulars of alterations to the rules of the Health Services Union and to make this declaration as required by Regulation 126 of the Fair Work (Registered Organisations) Regulations 2009.

- 1) I declare that the alterations were made in accordance with the Rules of the Health Services Union.
- 2) The Particulars of the rule alterations adopted by National Council are attached to this declaration and labelled 'Schedule A'.
- 3) The actions taken under the Rules to make these alterations were as follows:
  - a) The Senior National Assistant Secretary (Acting National Secretary), in conjunction with the National President, called for a Meeting of the National Council of the Health Services Union in accordance with Rule 22 of the Union rules.
  - b) On 10 September 2013, the National President, in consultation with the Senior National Assistant Secretary, sent by email a memo to Branch Secretaries advising of the date and venue of the Annual National Council meeting and inviting Branches to submit agenda items, for the Annual Meeting, prior to 17 October 2013.
  - c) The National President sent by email (Schedule B), notice of the Annual Meeting of National Council to Branch Delegates to National Council on 21 October 2103(Schedule C) and included a copy of the proposed agenda (Schedule D) and proposed rule changes (Schedule E), which is attached to this declaration and labelled 'Schedule B', 'Schedule C' 'Schedule D' and 'Schedule E'.
  - d) The Annual Meeting of National Council was held on 22 November 2013.
  - e) A Council Conference was held immediately prior to the Annual Meeting of National Council on 21 and 22 November 2013. The Council Conference served in part, as a consultation forum where the proposed rules were discussed.
  - f) Fifty Five (55) members attended the AGM. Current membership is Seventy One(71). As such the meeting was quorate.
  - g) Amended particulars of the proposed rule alterations were tabled at the meeting.

h) The following motion was put to the meeting:

Resolution: NC 25/2013

Moved: Chris Webb/Debbie Gunn

*"Noting the extensive consultation with National Councillors and the consideration by the National Council conference on 21 November 2013, National Council resolves to amend the Registered Rules of the HSU as tabled and amended at this meeting.*

*National Council further resolves that, in order to facilitate the timely certification of those rules necessary to be certified prior to the HSU elections in 2014 and in consultation with the Fair Work Commission, the rules can be presented for certification in two or more tranches."*

CARRIED

- i) Fifty Nine (59) voted in support. There was no dissent.
- j) A copy of the Particulars of the rule alterations tabled at the meeting and adopted by resolution of the meeting are attached to this declaration and labelled 'Schedule A'.

4) I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

Signed and dated by an officer.



Chris Brown  
Senior National Assistant Secretary  
(Acting National Secretary)

23December 2013

## Form F59 Application for Leave to Alter Rules\*

### FWA Matter No.:

[Insert FWA matter number of application for registration.]

### APPLICATION FOR LEAVE TO ~~CHANGE NAME\*/~~AND TO ALTER RULES\*

*Fair Work (Registered Organisations) Act 2009—s.25(1)*

*Fair Work (Registered Organisations) Regulations 2009—subregulation 27(a)*

#### Applicant Association



<b>Name:</b>	Health Services Union		<b>ABN:</b>	68243768561	
<b>Address:</b>	Suite 1 Level 3, 377 Sussex Street				
<b>Suburb:</b>	Sydney	<b>State:</b>	NSW	<b>Postcode:</b>	2000
<b>Contact person:</b>	Mark McLeay				
	<b>Title [if applicable]</b>	Mr [ <input checked="" type="checkbox"/> ] Mrs [ <input type="checkbox"/> ] Ms [ <input type="checkbox"/> ] Other [ <input type="checkbox"/> ] specify:			
<b>Telephone:</b>	02 82036066	<b>Mobile:</b>	0409860459		
<b>Fax:</b>	02 82036060	<b>Email:</b>	markm@hsu.net.au		

The Applicant applies to the President or a Deputy President for leave to alter its rules to enable it to comply with the *Fair Work (Registered Organisations) Act 2009*.

Particulars of the proposed alterations of the rules are as follows:

[Set out text of proposed change or alterations.]

- add a new “definitions” clause
- re-word the Objects of the Union
- re-write the Admission to Membership rule and associated rules
- include provisions for both National Life Members and Branch life Members of the Union
- clarify the arrangements for keeping a register of members
- clarify the termination of membership
- clarify the arrangements for the setting of, collection of, recovery of, non payment of Union dues
- clarify the arrangements for financial and unfinancial members
- clarify the provisions of the rules relating to misconduct by a member of the Union and the selection and powers of the Union Ombudsman to investigate an alleged misconduct
- introduce a new rules to deal with misconduct of National Officers
- make changes to the powers, functions and roles of National Council, National Executive and National Officers of the Union
- amend the rules relating to Branch management, Branch Officer and Branch Committee
- make clear the financial obligations, functions and duties imposed by the rules
- change the election processes
- re-order and re-number the contents of the rules

<b>Date:</b>	
<b>Signature:</b>	

\* Omit if inapplicable.

MAXimus Solutions

**Proposed amendments to rules determined on 18/9/2013 which are effective  
from 1/01/2014 (R2013/68)**

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## PART A - NAME, OBJECTS, MEMBERSHIP

### 1 - NAME

The name of the organisation shall be "Health Services Union" (hereinafter referred to as "the Union").

### 2 - INDUSTRY

The industries in connection with which the Union is registered are the industries of -

- A. the employment of persons employed or usually employed -
- (a) throughout Australia in or about or in connection with the carrying on of all hospitals, benevolent homes, dispensaries, asylums, mental hospitals, sanatoriums, rest homes, convalescent homes, medical schools, laboratories, colleges, industrial and other homes, charitable institutions, ambulance work, all classes of nursing, public or private;
    - (i) except in the State of Western Australia persons employed by the Crown in Right of the State of Western Australia or any state instrumentality or in private hospitals or undertakings in the said State as (i) dental therapists and (ii) professional, clerical, technical and administrative employees in radiology and pathology clinics;
    - (ii) provided that in relation to persons employed in or about or in connection with the carrying on of all benevolent homes and convalescent homes the following shall be excluded from membership:-



1. in the State of Queensland, ancillary staff (other than at Eventide Homes), dentists, radiographers and pharmaceutical chemists;
  2. in the State of Western Australia all enrolled nurses and all other staff excepting registered nursing staff and professional, administrative, clerical and technical staff;
  3. in the State of South Australia, all staff other than non-psychiatric nurses and enrolled nurses;
  4. in the Northern Territory, all staff other than registered nurses;
- (iii) except in the State of Victoria dentists employed by a public hospital and dental therapists employed by the school dental service.

and/or

- (aa) (1) In the State of Victoria in or about or in connection with the carrying on of all community health centres being declared community health centres under Section 45 of the Health Services Act 1988 or in receipt of funds in accordance with Section 20 of the Act but not including a person so employed as a registered medical practitioner unless such a person is eligible for membership of the Union pursuant to other paragraphs of this Rule.

Provided further that any person who is employed under the Victorian Public Service Act 1974 and who is located in a Community Health Centre shall be excluded from membership unless such person is otherwise eligible for membership of the Union pursuant to other paragraphs of this Rule.

Also provided that persons engaged in social and/or welfare work other than social welfare work aides shall not be eligible for membership unless such person is otherwise eligible for membership of the Union pursuant to other paragraphs of this Rule.

Provided that dentists employed by a community health centre, society or association in the State of Victoria shall not be eligible for membership.

- (2) In the State of Tasmania in or about or in connection with the carrying on of all community health centres being those conducted by the Tasmanian Department of Health Services but not including a person so employed as a registered medical practitioner unless such person is eligible for membership of the Union pursuant to other paragraphs of this Rule.
- (3) In the Australian Capital Territory in or about or in connection with the carrying on of all community health centres being those conducted by the A.C.T. Department of Health and Community Services but not including a person so employed as a registered medical practitioner unless such person is eligible for membership of the Union pursuant to other paragraphs of this Rule. Also provided that persons engaged in professional social work shall not be eligible for membership of the Union unless such person is eligible for membership of the Union pursuant to the other paragraphs of this Rule.

- (ab) In the States of Victoria, New South Wales and Queensland in or about or in connection with the following aboriginal health services:-

Victorian Aboriginal Health Service Co-operative Limited  
 Rumbalara Aboriginal Co-operative Limited  
 Aboriginal and Islander Community Health Service Incorporated Ipswich  
 Dandenong and District Aboriginal Co-operative Society Limited

Biripi Aboriginal Co-operative Medical Centre  
 Darak Aboriginal Community Controlled Medical Services Co-operative Limited  
 Brewarrina Aboriginal Health Service  
 Gippsland and East Gippsland Aboriginal Co-operative Limited Bairnsdale  
 Walgett Aboriginal Medical Service  
 St. Pius X Aboriginal Corporation  
 Bourke Aboriginal Health Service Limited  
 Townsville Aboriginal and Islander Health Services Limited  
 The Aboriginal and Islander Community Health Service Brisbane  
 Tharawal Aboriginal Corporation  
 South Coast Medical Service Aboriginal Corporation  
 Durri Aboriginal Corporation Medical Service Kempsey  
 Murray Valley Aboriginal Co-operative Limited  
 Aboriginal and Islander Health Services Limited Mackay  
 Cumeragunja Housing and Development Corporation  
 Ballarat and District Aboriginal Co-operative  
 Aboriginal Medical Services Co-operative Limited Redfern  
 Awabakal Newcastle Aboriginal Co-operative Limited  
 Central Gippsland Aboriginal Health and Housing Co-operative Limited  
 Illawarra Aboriginal Medical Service Corporation  
 National Aboriginal and Islander Health Organisation  
 Wu-Chopperen Medical Service Limited  
 Echuca Aboriginal Co-operative Society Limited  
 Swan Hill and District Aboriginal Co-operative Limited

provided that persons engaged in social and/or welfare work shall not be eligible for membership unless such person is otherwise eligible for membership of the Union pursuant to other paragraphs of this rule or is employed as a welfare aide in Victoria, by the Victorian Aboriginal Health Service, or as an employee delivering medical or paramedical care.

Provided further that this paragraph shall not exclude from membership of the Union persons otherwise eligible to be members of the Union pursuant to other paragraphs of this rule.

- (b) in the States of Victoria, Queensland, Tasmania and in the Australian Capital Territory, in the provision of care and training to the intellectually disabled and/or physically disabled and/or psychiatrically disabled and/or developmentally disabled and work ancillary thereto in hostels, day care centres, and homes (including dwellings) but excluding trained teachers employed as such and in the States of Victoria and Queensland and the Australian Capital Territory, teacher aides employed as such;

Provided that the following persons shall be excluded from coverage:-

- (i) in the State of Victoria -
1. cleaners employed pursuant to the Victorian Government School Cleaners Agreement or any successor thereto;
  2. persons employed in the provision of home care services to persons in private homes and dwellings;
  3. supervisors, administrators and community service officers as all defined in awards to which the Municipal Officers Association of Australia is respondent, being employees of employer respondents to such awards;
  4. persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any

person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958 (Vic.);

(ii) in the State of Tasmania -

1. cleaners employed in Government educational institutions or educational undertakings;
2. community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;

(iii) in the State of Queensland, community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;

(iv) in the Australian Capital Territory, persons employed in the provision of home care services to persons in private homes or dwellings;

and/or

(c) in the State of Victoria, in the provision of child care services in day care centres and residential centres but excluding -

1. trained teachers and teacher aides employed as such;
2. cleaners employed pursuant to the Victorian Government School Cleaners Agreement or any successor thereto;
3. supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers Association of Australia is respondent, being employees of employer respondents to such awards;
4. persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, in any centre which is established after 8th October 1986 but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958 (Vic.);

and/or

(d) (i) in the State of Tasmania, in or in connection with doctors and/or dental surgeries, clinics and practices;

(ii) in the Australian Capital Territory, radiographers and nursing staff in or in connection with doctors and/or dental surgeries, clinics and practices;

and/or

(e) in the States of Victoria, Queensland and Tasmania and in the Australian Capital Territory in or in connection with the provision of medical, paramedical and/or nursing care for aged persons in day care centres and/or homes (including dwellings) and work ancillary thereto;

Provided that the following persons shall be excluded from coverage:

(i) in the State of Victoria -

1. supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers Association of Australia is respondent, being employees of employer respondents to such awards;
  2. persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958 (Vic.);
- (ii) in the State of Queensland -
1. radiographers, dentists, pharmaceutical chemists, ancillary staff (other than at Eventide Homes) and persons employed in the provision of home care services to aged persons in private homes or dwellings;
  2. community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;
- (iii) in the state of Tasmania, persons employed as community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;
- (iv) in the Australian Capital Territory in the provision of home care services to aged persons in private homes and dwellings, and,
- (f) Provided that persons who are employed in the Public Service of Victoria in the classifications or grades listed in Schedules 1-4 of the Salary Schedules made by the Public Service Board under the Public Service Act 1974 (Vic) shall be excluded from coverage, other than persons who are employed in the classification or grade of dental nurse in Salary Schedule 2.
- (g) without limiting and without being limited by anything in the foregoing provisions of this ~~R~~rule, in the State of Western Australia, persons engaged in professional, administrative, technical, supervisory or clerical capacities employed in the health industry:
- (i) by any public or private hospital other than any hospital or institution established under the Mental Health Act, 1962 except for shift engineers employed at Royal Perth Hospital;
  - (ii) by the Hospital Laundry and Linen Service, except for persons employed in the callings of foreperson, laundrypersons, general hand, driver, gardener, security person, storeperson, press operator, seamstress, sorter, cook, tradesperson, drycleaner, presser, cutter in the Hospital Laundry and Linen Service or other persons employed as laundry workers;
  - (iii) by the Western Australian School of Nursing or any service ancillary to the practice of medicine, including institutions or facilities substantially engaged in providing medical laboratory services, radiological services, physiotherapy services, occupational therapy services, speech therapy services, social work services. Provided that any person who is employed as an officer under and within the meaning of the Public Service Act 1978-90 (W.A.), or who is employed in doctors' surgeries or any wholesale or retail distributing or manufacturing organisation, or who is employed by the St. John Ambulance Association for the purpose of operating first aid and/or ambulance services shall not by this paragraph be eligible for membership;

- (iv) by the Western Australian Division of the Red Cross Society (except for any person employed as a clerk) in facilities or services other than those specified in (i) and (iii) above;
- (v) by the Cerebral Palsy Association of Western Australia (Inc.) (except for tradespersons who perform the usual trades duties) in facilities or services other than those specified in (i) and (iii) above;
- (vi) by the Silver Chain Nursing Association (Inc.) in facilities or services other than those specified in (i) and (iii) above;
- (vii) by the ACTIV Foundation (Inc.) in facilities or services other than those specified in (i) and (iii) above;
- (viii) by dentists as dental therapists;
- (ix) by the Paraplegic-Quadriplegic Association of Western Australia (Inc.), Good Samaritan Industries or F.C.B. industries in facilities or services other than those specified in (i) and (iii) above. For the purposes of this paragraph only, the word "supervisory" appearing in the preamble to this sub-Rule (g) shall include categories of work which oversee and/or supervise the execution or performance of tasks by or the actions and activities of persons who are not employees under Western Australian industrial law;
- (x) by any non-government employer primarily engaged in health services, as audiologists, chiropodists, clinical psychologists, dietitians, occupational therapists, nucleographers, physiotherapists, psychologists, social workers, speech therapists and welfare workers, howsoever designated. Provided that such an employee who is solely or substantially engaged in providing his or her services to other employees of his or her employer and who is eligible for membership as at 30th April, 1985, of another registered state organisation within the meaning of the Industrial Relations Act 1979 (W.A.) shall not by this paragraph be eligible for membership.

Provided that nothing in this paragraph 2A(g) shall render eligible for membership persons who are not otherwise eligible for membership under this rule and who were eligible for membership of the Australian Nursing Federation as at 23 March 1993.

- (h) in the State of Victoria in classes or grades of employment which were within the jurisdiction of the Health and Community Services (Management and Administrative Staff) Conciliation Board established pursuant to the Industrial Relations Act 1979 (Vic) as at 28 February 1993.
  - (j) in the State of Victoria, in or in connection with private medical centres or surgeries, private medical clinics or practices or by the Royal District Nursing Service excluding registered medical practitioners employed as such and excluding registered nurses eligible for membership of the Australian Nursing Federation.
  - (k) provided that in the State of Victoria registered nurses eligible for membership of the Australian Nursing Federation employed in, or in connection with, private medical centres or surgeries, private medical clinics or practices or by the Royal District Nursing Service shall not be eligible for membership.
- B. the employment of persons employed or usually employed in the State of New South Wales in connection with Hospitals, Mental Hospitals, Hospital Dispensaries, Medical Schools, Laboratories, Colleges, Industrial and other similar Homes, Public Charitable Institutions, Ambulance Work (including First Aid Work), General Nursing, Reception Houses, Sanatoriums, Rest Homes, which are wholly or partly controlled by the Board of Health, Special Schools and of an unlimited number of persons employed or usually employed in or in connection with the

Universities in the State of New South Wales and of an unlimited number of persons (other than persons not employed in industry) employed or usually employed in or in connection with Universities and/or colleges of advanced education in the Australian Capital Territory and of an unlimited number of persons employed or usually employed as animal technicians and of an unlimited number of persons (other than persons not employed in industry) employed or usually employed in or in connection with Universities and/or colleges of advanced education in the States of Tasmania, Queensland, Victoria, South Australia, and Western Australia, except -

Persons who are eligible for membership of the Federated Miscellaneous Workers Union of Australia except those persons in New South Wales only, who are employed or usually employed in hospitals, mental hospitals, hospital dispensaries, industrial homes, ambulance work, general nursing, reception houses, sanatoriums, rest homes which are wholly or partly controlled by the Board of Health, where those persons are employed in or usually employed in or in connection with any of the following callings, namely watchmen, caretakers, cleaners, lift attendants, gardeners, photographers, commissionaires, dentists, dental technicians, dental assistants, and attendants or parking attendants or domestic staff, groundsmen and yardmen in denominational or educational schools, laundry workers, messengers, chemical workers and gatekeepers, and except those employed or usually employed by the University of Sydney, the University of New England, University of Tasmania (Hobart campus), University of Canberra, Australian National University, University of New South Wales Medical School, University of Newcastle Medical School, Southern Cross University and the Macquarie University; and

Persons who are employed in the Public Service of Victoria in the classifications or grades listed in Schedules 1-4 of the Salary Schedules made by the Public Service Board under the Public Service Act 1974 (Vic) shall be excluded from coverage, other than persons who are employed in the classification or grade of dental nurse in Salary Schedule 2.

### **3 - CONDITIONS OF ELIGIBILITY FOR MEMBERSHIP**

The Union shall consist of an unlimited number of persons -

A. employed or usually employed -

- (a) throughout Australia in or about or in connection with the carrying on of all hospitals, benevolent homes, dispensaries, asylums, mental hospitals, sanatoriums, rest homes, convalescent homes, medical schools, laboratories, colleges, industrial and other homes, charitable institutions, ambulance work, all classes of nursing, public or private;
  - (i) except in the State of Western Australia persons employed by the Crown in Right of the State of Western Australia or any State instrumentality or in private hospitals or undertakings in the said State as (i) dental therapists and (ii) professional, clerical, technical and administrative employees in radiology and pathology clinics;
  - (ii) provided that in relation to persons employed in or about or in connection with the carrying on of all benevolent homes and convalescent homes the following shall be excluded from membership:-
    - 1. in the State of Queensland ancillary staff (other than at Eventide Homes), dentists, radiographers and pharmaceutical chemists;
    - 2. in the State of Western Australia all enrolled nurses and all other staff excepting registered nursing staff and professional, administrative, clerical and technical staff;
    - 3. in the State of South Australia, all staff other than non-psychiatric nurses and enrolled nurses;

4. in the Northern Territory, all staff other than registered nurses;
- (iii) except in the State of Victoria dentists employed by a public hospital and dental therapists employed by the school dental service.

and/or

- (aa) (1) In the State of Victoria in or about or in connection with the carrying on of all community health centres being declared community health centres under Section 45 of the Health Services Act 1988 or in receipt of funds in accordance with Section 20 of the Act but not including a person so employed as a registered medical practitioner unless such a person is eligible for membership of the Union pursuant to other paragraphs of this Rule.

Provided further that any person who is employed under the Victorian Public Service Act 1974 and who is located in a Community Health Centre shall be excluded from membership unless such person is otherwise eligible for membership of the Union pursuant to other paragraphs of this Rule.

Also provided that persons engaged in social and/or welfare work other than social welfare work aides shall not be eligible for membership unless such person is otherwise eligible for membership of the Union pursuant to other paragraphs of this Rule.

Provided that dentists employed by a community health centre, society or association in the State of Victoria shall not be eligible for membership.

- (2) In the State of Tasmania in or about or in connection with the carrying on of all community health centres being those conducted by the Tasmanian Department of Health Services but not including a person so employed as a registered medical practitioner unless such person is eligible for membership of the Union pursuant to other paragraphs of this Rule.
- (3) In the Australian Capital Territory in or about or in connection with the carrying on of all community health centres being those conducted by the A.C.T. Department of Health and Community Services but not including a person so employed as a registered medical practitioner unless such person is eligible for membership of the Union pursuant to other paragraphs of this Rule. Also provided that persons engaged in professional social work shall not be eligible for membership of the Union unless such person is eligible for membership of the Union pursuant to the other paragraphs of this Rule.
- (ab) In the States of Victoria, New South Wales and Queensland in or about or in connection with the following aboriginal health services:-

Victorian Aboriginal Health Service Co-operative Limited  
Rumbalara Aboriginal Co-operative Limited  
Aboriginal and Islander Community Health Service Incorporated Ipswich  
Dandenong and District Aboriginal Co-operative Society Limited  
Biripi Aboriginal Co-operative Medical Centre  
Darak Aboriginal Community Controlled Medical Services Co-operative Limited  
Brewarrina Aboriginal Health Service  
Gippsland and East Gippsland Aboriginal Co-operative Limited Bairnsdale  
Walgett Aboriginal Medical Service  
St. Pius X Aboriginal Corporation  
Bourke Aboriginal Health Service Limited  
Townsville Aboriginal and Islander Health Services Limited  
The Aboriginal and Islander Community Health Service Brisbane  
Tharawal Aboriginal Corporation

South Coast Medical Service Aboriginal Corporation  
Durri Aboriginal Corporation Medical Service Kempsey  
Murray Valley Aboriginal Co-operative Limited  
Aboriginal and Islander Health Services Limited Mackay  
Cummeragunja Housing and Development Corporation  
Ballarat and District Aboriginal Co-operative  
Aboriginal Medical Services Co-operative Limited Redfern  
Awabakal Newcastle Aboriginal Co-operative Limited  
Central Gippsland Aboriginal Health and Housing Co-operative Limited  
Illawarra Aboriginal Medical Service Corporation  
National Aboriginal and Islander Health Organisation  
Wu-Chopperen Medical Service Limited  
Echuca Aboriginal Co-operative Society Limited  
Swan Hill and District Aboriginal Co-operative Limited

provided that persons engaged in social and/or welfare work shall not be eligible for membership unless such person is otherwise eligible for membership of the Union pursuant to other paragraphs of this rule or is employed as a welfare aide in Victoria, by the Victorian Aboriginal Health Service, or as an employee delivering medical or paramedical care.

Provided further that this paragraph shall not exclude from membership of the Union persons otherwise eligible to be members of the Union pursuant to other paragraphs of this rule.

- (b) in the States of Victoria, Queensland, Tasmania and in the Australian Capital Territory, in the provision of care and training to the intellectually disabled and/or physically disabled and/or psychiatrically disabled and/or developmentally disabled and work ancillary thereto in hostels, day care centres, and homes (including dwellings) but excluding trained teachers employed as such and in the States of Victoria and Queensland and the Australian Capital Territory, teacher aides employed as such;

Provided that the following persons shall be excluded from coverage:-

- (i) in the State of Victoria -

1. cleaners employed pursuant to the Victorian Government School Cleaners Agreement or any successor thereto;
2. persons employed in the provision of home care services to persons in private homes and dwellings;
3. supervisors, administrators and community service officers as all defined in awards to which the Municipal Officers Association of Australia is respondent, being employees of employer respondents to such awards;
4. persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958(Vic.);

- (ii) in the State of Tasmania -

1. cleaners employed in Government educational institutions or educational undertakings;



2. community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;

(iii) in the State of Queensland, community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;

(iv) in the Australian Capital Territory, persons employed in the provision of home care services to persons in private homes or dwellings;

and/or

(c) in the State of Victoria, in the provision of child care services in day care centres and residential centres but excluding -

(i) trained teachers and teacher aides employed as such;

(ii) cleaners employed pursuant to the Victorian Government School Cleaners Agreement or any successor thereto;

(iii) supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers Association of Australia is respondent, being employees of employer respondents to such awards;

(iv) persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, in any centre which is established after 8th October 1986 but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority delegates powers under Section 241A of the Local Government Act 1958(Vic.);

and/or

(d) (i) in the State of Tasmania in or in connection with doctors and/or dental surgeries, clinics and practices;

(ii) in the Australian Capital Territory, radiographers and nursing staff in or in connection with doctors and/or dental surgeries, clinics and practices;

and/or

(e) in the States of Victoria, Queensland and Tasmania and in the Australian Capital Territory in or in connection with the provision of medical, paramedical and/or nursing care for aged persons in day care centres and/or homes (including dwellings) and work ancillary thereto;

Provided that the following persons shall be excluded from coverage:-

(i) in the State of Victoria -

1. supervisors, administrators and community service officers as all defined in awards to which The Municipal Officers Association of Australia is respondent, being employees of employer respondents to such awards;

2. persons being otherwise eligible for membership of the Federated Municipal and Shire Council Employees Union of Australia who are employed directly by Local Government Authorities, but excluding any person employed by a committee of management recognised or appointed by such an Authority, including a committee to which an Authority

delegates powers under Section 241A of the Local Government Act 1958 (Vic.);

- (ii) in the State of Queensland -
    - 1. radiographers, dentists, pharmaceutical chemists, ancillary staff (other than at Eventide Homes) and persons employed in the provision of home care services to aged persons in private homes or dwellings;
    - 2. community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;
  - (iii) in the State of Tasmania, persons employed as community service officers, supervisors and administrators employed by local governing authorities or statutory authorities;
  - (iv) in the Australian Capital Territory, in the provision of home care services to aged persons in private homes and dwellings;
- (f) Provided that persons who are employed in the Public Service of Victoria in the classifications or grades listed in Schedules 1-4 of the Salary Schedules made by the Public Service Board under the Public Service Act 1974 (Vic) shall be excluded from coverage, other than persons who are employed in the classification or grade of dental nurse in Salary Schedule 2.
- (g) without limiting and without being limited by anything in the foregoing provisions of this Rule, in the State of Western Australia, persons engaged in professional, administrative, technical, supervisory or clerical capacities employed in the health industry:
- (i) by any public or private hospital other than any hospital or institution established under the Mental Health Act, 1962 except for shift engineers employed at Royal Perth Hospital;
  - (ii) by the Hospital Laundry and Linen Service, except for persons employed in the callings of foreperson, laundrypersons, general hand, driver, gardener, security person, storeperson, press operator, seamstress, sorter, cook, tradesperson, drycleaner, presser, cutter in the Hospital Laundry and Linen Service or other persons employed as laundry workers;
  - (iii) by the Western Australian School of Nursing or any service ancillary to the practice of medicine, including institutions or facilities substantially engaged in providing medical laboratory services, radiological services, physiotherapy services, occupational therapy services, speech therapy services, social work services. Provided that any person who is employed as an officer under and within the meaning of the Public Service Act 1978-90 (W.A.), or who is employed in doctors' surgeries or any wholesale or retail distributing or manufacturing organisation, or who is employed by the St. John Ambulance Association for the purpose of operating first aid and/or ambulance services shall not by this paragraph be eligible for membership;
  - (iv) by the Western Australian Division of the Red Cross Society (except for any person employed as a clerk) in facilities or services other than those specified in (i) and (iii) above;
  - (v) by the Cerebral Palsy Association of Western Australia (Inc.) (except for tradespersons who perform the usual trades duties) in facilities or services other than those specified in (i) and (iii) above;

- (vi) by the Silver Chain Nursing Association (Inc.) in facilities or services other than those specified in (i) and (iii) above;
- (vii) by the ACTIV Foundation (Inc.) in facilities or services other than those specified in (i) and (iii) above;
- (viii) by dentists as dental therapists;
- (ix) by the Paraplegic-Quadriplegic Association of Western Australia (Inc.), Good Samaritan Industries or F.C.B. industries in facilities or services other than those specified in (i) and (iii) above. For the purposes of this paragraph only, the word "supervisory" appearing in the preamble to this sub-Rule (g) shall include categories of work which oversee and/or supervise the execution or performance of tasks by or the actions and activities of persons who are not employees under Western Australian industrial law;
- (x) by any non-government employer primarily engaged in health services, as audiologists, chiropodists, clinical psychologists, dietitians, occupational therapists, nucleographers, physiotherapists, psychologists, social workers, speech therapists and welfare workers, howsoever designated. Provided that such an employee who is solely or substantially engaged in providing his or her services to other employees of his or her employer and who is eligible for membership as at 30th April, 1985, of another registered state organisation within the meaning of the Industrial Relations Act 1979 (W.A.) shall not by this paragraph be eligible for membership.

Provided that nothing in this paragraph 3A(g) shall render eligible for membership persons who are not otherwise eligible for membership under this rule and who were eligible for membership of the Australian Nursing Federation as at 23 March 1993.

- (h) in the State of Victoria in classes or grades of employment which were within the jurisdiction of the Health and Community Services (Management and Administrative Staff) Conciliation Board established pursuant to the Industrial Relations Act 1979 (Vic) as at 28 February 1993.
- (j) in the State of Victoria, in or in connection with private medical centres or surgeries, private medical clinics or practices or by the Royal District Nursing Service excluding registered medical practitioners employed as such and excluding registered nurses eligible for membership of the Australian Nursing Federation.
- (k) provided that in the State of Victoria registered nurses eligible for membership of the Australian Nursing Federation employed in, or in connection with, private medical centres or surgeries, private medical clinics or practices or by the Royal District Nursing Service shall not be eligible for membership.

B. employed or usually employed -

1. in the State of New South Wales in connection with Hospitals, Mental Hospitals, Hospital Dispensaries, Medical Schools, Laboratories, Colleges, Industrial and other similar Homes, Public Charitable Institutions, Ambulance Work (including First Aid Work), General Nursing, Reception Houses, Sanatoriums, Rest Homes which are wholly or partly controlled by the Board of Health, Special Schools;
2. in or in connection with Universities in the State of New South Wales;
3. in or in connection with Universities and/or colleges of advanced education in the Australian Capital Territory;
4. as animal technicians;

5. in or in connection with Universities and/or colleges of advanced education in the State of Tasmania;
6. in or in connection with Universities and/or colleges of advanced education in the State of Queensland.
7. in or in connection with Universities and/or colleges of advanced education in the State of Victoria;
8. in or in connection with Universities and/or colleges of advanced education in the State of South Australia;
9. in or in connection with Universities and/or colleges of advanced education in the State of Western Australia;

(EXCEPT Staff of Universities or Colleges of Advanced Education classified as Chancellors, Vice-Chancellors, Deputy Vice-Chancellors, Pro-Vice-Chancellors, Principal, Deputy Principal, Vice-Principal, Secretary Registrar, Associate Registrar and persons the major and substantial portion of whose employment is demonstrating to and/or instructing students);

Provided that:

- (a) Deleted
- (b) Deleted
- (c) persons employed in a University in the Australian Capital Territory as cooks, kitchen staff, dining room staff, house staff, or in the serving, mixing or dispensing of liquor;
- (d) persons employed in the Australian Public Service or in Australian Government Instrumentalities or Commissions but not including persons employed in Universities and/or colleges of advanced education in the Australian Capital Territory;
- (e) persons employed by the University of New South Wales or its colleges or any University which may be formed as a result of granting autonomy to such colleges or by the University of Newcastle or by the Australian National University within the scope of the Constitution Rule of the Amalgamated Metal Workers Union, or of the Australasian Society of Engineers;
- (f) persons employed as fitters in hospitals;
- (g) persons who are eligible for membership of the Transport Workers' Union of Australia, except drivers in the State of New South Wales of ambulances, drivers of motor cars and/or other vehicles with carrying capacity not exceeding 1 ton 5 cwt;
- (h) persons who are eligible for membership of The Federated Miscellaneous Workers Union of Australia except those persons in New South Wales only, who are employed or usually employed in hospitals, mental hospitals, hospital dispensaries, industrial homes, ambulance work, general nursing, reception houses, sanitariums, rest homes which are wholly or partly controlled by the Board of Health, where those persons are employed in or usually employed in or in connection with any of the following callings, namely, watchmen, caretakers, cleaners, lift attendants, gardeners, photographers, commissionaires, dentists, dental technicians, dental assistants, and attendants or parking attendants or domestic staff, groundsmen and yardmen in denominational or educational schools, laundry workers, messengers, chemical workers and gatekeepers, and except those employed or usually employed by the University of Sydney, The University of New England, University of Tasmania (Hobart campus), University of Canberra, Australian National University,

University of New South Wales Medical School, University of Newcastle Medical School, Southern Cross University and the Macquarie University;

- (i) persons employed or usually employed in or in connection with Universities and/or colleges of advanced education in the States of Queensland, Victoria and South Australia, who are eligible for membership in the Federated Clerks Union of Australia as at 1st April 1975;
- (j) Deleted
- (k) persons who are employed in the Public Service of Victoria in the classifications or grades listed in Schedules 1-4 of the Salary Schedules made by the Public Service Board under the Public Service Act 1974 (Vic), other than persons who are employed in the classification or grade of dental nurse in Salary Schedule 2;

shall not be eligible for membership of the Union pursuant to the foregoing provisions of Clause B of this Rule;

- C. such other persons, whether or not employees in the industries of the Union as have been elected or appointed full time National Officers or Branch Officers or organisers of the Union or any Branch thereof and admitted as members of the Union. For the purposes of this Clause C of this Rule, the full-time Officers of the Union and of any Branch thereof shall be the holders of any of the offices of National Officers or Branch Officers where the duties of such office are of a full-time nature; and,
- D. such persons, whether or not employees in the industries of the Union, who -
  - (i) are full time organisers or industrial officers of the Union or a Branch of the Union; and,
  - (ii) were, on the day immediately preceding the date fixed by the Industrial Registrar and notified by him in the Gazette pursuant to the Conciliation and Arbitration Act 1904 as amended from time to time as the day upon which the amalgamation of The Hospital Employees' Union of Australia and the Health and Research Employees' Association of Australia is to take effect full time organisers or industrial officers of the Health and Research Employees' Association of Australia or a Branch thereof and members of The Health and Research Employees' Association of Australia.
- E. such persons, whether or not employees in the industries of the Union who -
  - (i) were, at a time prior to 30th November, 1992, employees in or in connection with the industries of the Union and members of the Union; and,
  - (ii) were, on the 30th November, 1992, employees (other than clerical or administrative employees), or full-time elected officers, of the Victoria No. 1 or No. 2 Branches of the Union; and,
  - (iii) remain employees of the Union.
- F. (i) who are independent contractors who, if they were employees performing work of the kind they usually performed as independent contractors, would be employees eligible for membership of the union.
  - (ii) (other than employees) who:
    - (a) are, or are able to become, members of an industrial union of employees within the meaning of the Industrial Arbitration Act, 1940 of New South Wales;
    - (b) are employees for the purposes of the Industrial Relations Act, 1961 of Queensland;

- (c) are employees for the purposes of the Industrial Relations Act, 1979 of Western Australia; or
- (d) are employees for the purposes of the Industrial Conciliation and Arbitration Act, 1972 of South Australia;

and who, if they were employees performing work of the kind which they usually perform, would be employees eligible for membership of the Union.

**DELETE CLAUSE 4 – OBJECTS, AND REPLACE WITH THE FOLLOWING NEW CLAUSE 4 – OBJECTS:**

**~~4 – OBJECTS~~**

~~The objects of the Union shall be:~~

- ~~(a) to raise a fund by entrance fees, contributions, fines and levies, for the purpose of advancing the best interest of its members;~~
- ~~(b) to regulate and protect the conditions of labour and relations between workers and employers, and between workers and workers;~~
- ~~(c) to uphold the rights of combination of labour, and to improve, protect and foster the best interests of the members;~~
- ~~(d) to take all necessary steps for the protection and safety of the members in the course of their occupation;~~
- ~~(e) to take the necessary steps and actions under any industrial arbitration Act or other Act, or otherwise, for the purpose of securing satisfactory industrial conditions in respect of the remuneration of labour, the hours of labour, the age of employees and other conditions in or about their employment;~~
- ~~(f) to promote industrial peace by all amicable means, such as conciliation, arbitration, or the establishment of permanent boards, to assist in their settlement by just and equitable methods;~~
- ~~(g) to protect such rights that have already been gained by association of employees in collective bargaining and to lawfully initiate or further any steps that will give the Union the fullest power in arranging the terms and mode of employment of persons engaged in the callings referred to in Rule 3;~~
- ~~(h) to obtain preference of employment for members of the Union;~~
- ~~(i) to obtain equal pay for the sexes;~~
- ~~(j) to urge the various Governments and other employers to establish superannuation funds for all employees;~~
- ~~(k) to establish and maintain such publications as may be in the interests of the Union;~~
- ~~(l) to provide legal and other assistance to financial members whenever and wherever considered necessary;~~
- ~~(m) to amalgamate with or absorb any organisation or, subject to Rule 70, affiliate with any organisation which has any objects in common with the objects of the Union;~~
- ~~(n) to establish branches and sub branches throughout Australia;~~

- ~~(o) — to foster co-operation and harmonious relations between its members in the various States of Australia;~~
- ~~(p) — to establish a fund or funds for long service leave and superannuation for full time officers and employees of the Union and its branches;~~
- ~~(q) — to make gifts for bona fide charitable purposes and to subscribe to testimonials or otherwise recognise services rendered to the Union;~~
- ~~(r) — to establish harmonious and co-operative relations with all legitimate managements and employee organisations and with government and statutory authorities in the hospital, institutional, industrial and social service fields;~~
- ~~(s) — to encourage a high standard of professional ethics and integrity amongst all members of the Union;~~
- ~~(t) — to establish scholarships, bursaries, courses of study, and training for the vocational advancement of all members of the Union;~~
- ~~(u) — to purchase, take on lease or in exchange, hire and otherwise acquire any real property and in particular any land, buildings or easements for any purpose connected with the conduct of the Union and its branches;~~
- ~~(v) — to borrow or raise or secure the payment of money in such manner as the Union or a branch may think fit, to secure the same, or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred, or to be entered into by the Union or a branch in any way, and to redeem or pay off such securities;~~
- ~~(w) — to sell, improve, manage, develop, exchange, leave, dispose of, turn to account, or otherwise deal with all or any part of the property and rights of the Union or a branch which may be vested in Trustees for them; and~~
- ~~(x) — to do all such things as the Union may from time to time deem incidental or conducive to the attainment of the above objects or any of them.~~

#### **4 - OBJECTS**

The objects of the Union shall be:

- (a) To uphold, foster, protect and improve the rights and interests of members and persons employed in the industries referred to in rule 2, industrially and otherwise, to the best possible conditions and just remuneration and to guard them against any hardship, oppression or injustice in connection with their work;
- (b) To uphold, foster, protect and improve the rights of members to freely associate and collectively bargain;
- (c) To take all necessary steps for the protection, health and safety of members;
- (d) To encourage and foster improvement of the status, training, advancement and qualifications of all members;
- (e) To obtain equal remuneration and employment and civil rights for members, regardless of the member's race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction, social origin or any other unlawful basis of discrimination.

- (f) To ensure that members enjoy the same civil rights as are enjoyed by other citizens;
- (g) To improve the lives, including the working lives, of members and their families;
- (h) To promote industrial peace by all amicable means, such as conciliation, arbitration, or the establishment of permanent boards, to assist in their settlement by just and equitable methods;
- (i) To represent the Union and members in any court, body or tribunal dealing with matters of interest or concern to members;
- (j) To secure the participation of and influence of members in the administration, development and planning of industries referred to in rule 2;
- (k) To encourage the democratic involvement of members in the Union;
- (l) To establish Branches and sub-Branches throughout Australia, and to encourage the appointment of delegates and other representatives of members;
- (m) To act as an agent for and on behalf of members or non-members in a manner consistent with these objects and the rules and consistently with the interest of members;
- (n) To provide legal and financial assistance and other representation and support to members and their dependants in the pursuit of these objects;
- (o) To co-operate with and assist other organisations, associations, institutions and groups in the pursuit of these and similar objects;
- (p) To amalgamate, affiliate or in any manner associate with other organisations, associations, institutions and groups in the pursuit of these objects;
- (r) To uphold the rights of labour and to represent members in the peak councils of the trade union movement and in international forums or organisations;
- (s) To determine actions on matters of concern to members in relation to international affairs and to carry out these actions;
- (t) To borrow or raise money, invest the funds of the Union, acquire or deal with land and other property real or personal, in such a manner as may be determined from time to time by the Union,
- (u) To elect, appoint and employ officers and employees for the furtherance of the Union's objects and to remunerate such persons;
- (v) To do all such things as the Union may from time to time deem incidental or conducive to the attainment of the above objects or any of them.

**DELETE EXISTING RULE 5 – REGISTERED OFFICE**

**~~5 – REGISTERED OFFICE~~**

~~The registered office of the Union shall be at such place as the National Council or National Executive from time to time may decide.~~

**INSERT NEW RULE 5 – DEFINITIONS AS FOLLOWS:**



## 5 - DEFINITIONS

In these rules, other than in rules 2 and 3, the following definitions are used:

- (a) **board** means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.
- (b) **Branch committee of management** means:
  - (i) in relation to a Branch other than the NSW Branch, the Branch Committee established by rule 41;
  - (ii) in relation to the NSW Branch, the New South Wales Branch Council established by rule 42;
- (c) **Branch officer** means the officers referred to in rule 40(a).
- (d) **child** has the same meaning as that word in sections 6 and 7 of the Act.
- (e) **committee of management** means:
  - (iii) in relation to a Branch other than the NSW Branch, the Branch Committee established by rule 41;
  - (iv) in relation to the NSW Branch, the New South Wales Branch Council established by rule 42;
  - (v) in relation to the Union, the National Executive established by rule 20.
- (f) **de facto partner** has the same meaning as that phrase in section 6 of the Act.
- (g) **declared person or body** has the same meaning as that phrase in section 148C (5) of the Act.
- (h) **disclosure period** is the financial year ending on 30 June of each year.
- (i) **funds and property of the Union** means the funds and property of the Union that are not, under rule 53, the funds and property of a Branch.
- (j) **National Officer** means an officer referred to in rule 14.
- (k) **non-cash benefit** has the same meaning as that phrase in section 6 of the Act.
- (l) **office** has the same meaning as that word in section 9 of the Act.
- (m) **officer** has the same meaning as that word in section 6 of the Act.
- (n) **parent** has the same meaning as that word in section 6 of the Act.
- (o) **peak council** means a National, State, Regional or occupational council or federation that is effectively representative of a significant number of organisations (within the ordinary meaning of the term) representing employers or employees.
- (p) **related party** has the same meaning as that phrase in sections 6 and 9B of the Act.
- (q) **relative** in relation to a person, means:
  - (i) a parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person;  
or
  - (ii) the spouse of the first mentioned person.
- (r) **relevant non-cash benefit** has the same meaning as that phrase in section 148A of the Act.
- (s) **relevant remuneration** has the same meaning as that phrase in section 148A of the Act.
- (t) **remuneration** has the same meaning as that word in section 6 of the Act.
- (u) **spouse** has the same meaning as that word in section 6 of the Act.

- (v) *stepchild* has the same meaning as that word in section 6 of the Act.
- (w) *step-parent* has the same meaning as that word in section 6 of the Act
- (x) **the Act** shall mean the Fair Work (Registered Organisations) Act 2009 (Cth) or any statute enacted to replace that Act.

**DELETE RULE 6 – ADMISSION TO MEMBERSHIP AND REPLACE WITH THE FOLLOWING  
NEW CLAUSE 6 – ADMISSION TO MEMBERSHIP:**

**~~6 – ADMISSION TO MEMBERSHIP~~**

- ~~(a) An applicant for membership of the Union shall forward or cause to be forwarded to the Secretary of the branch to which he/she would, if admitted to membership, be attached under Rule 48 of these Rules the following:
  - ~~(i) An applicant for membership on a form approved by the National Executive for that purpose; or~~
  - ~~(ii) An application for membership by telephone; or~~
  - ~~(iii) An application for membership via the internet.~~~~
- ~~(b) An applicant for membership of the Union shall be informed in writing of:
  - ~~(i) the financial obligations arising from membership of the Union; and,~~
  - ~~(ii) the circumstances, and the manner, in which a member of the Union may resign from the Union.~~~~
- ~~(c) Subject to clause (d) of this Rule, an applicant shall become and be a member of the Union as from the date of receipt of the application by the appropriate Branch Secretary, or from the date upon which the applicant commences payment of annual contributions pursuant to these rules, whichever ever is the earlier.~~
- ~~(d) A Branch Secretary shall have power to refer any application for membership to the next ordinary meeting of his/her Branch Committee for consideration and decision in which case such applicant shall be notified in writing by the Branch Secretary of his/her admission to membership by the Branch Committee, and shall thereupon be deemed to have become a member as from the date specified in clause (c) of this rule. Where a Branch Committee refuses such an application for admission, the Branch Secretary shall forthwith notify the applicant in writing of such refusal and the grounds for such refusal and the applicant shall have the right of appeal to the National Executive provided that such appeal is made in writing and is delivered to the National Secretary within fourteen days of the applicant being notified of such refusal. The National Executive shall consider and determine the appeal at its next ordinary meeting. Where the decision of a Branch Committee or the National Executive is favourable to the applicant, the applicant shall thereupon be deemed to have become a member as from the date specified in paragraph (b) of this rule.~~
- ~~(e) An applicant whose application is refused shall have refunded to him/her any amount or amounts paid by him/her by way of contributions.~~
- ~~(f) This union is authorised to enter into agreements, in the form prescribed by the Fair Work (Registered Organisations) Act 2009, with State Registered Unions to the effect that members of the State Registered Union concerned who are ineligible state members are eligible to become members of the Union under the agreement.~~

## 6 - ADMISSION TO MEMBERSHIP

- (a) It is the responsibility of each Branch Secretary to encourage persons eligible for membership of the Branch to become members of the Union and to take steps, and direct other employees and officers of the Branch to take steps, necessary to facilitate easy admission to membership.
- (b) An applicant for membership of the Union shall direct an application to the Branch to which, pursuant to the provisions of rule 38, he or she would on becoming a member be attached ("the relevant Branch").
- (c) The application for membership may be made:
  - (i) In writing on a form approved by the relevant Branch Committee of Management and published and distributed by that Branch;
  - (ii) In writing by clearly evidencing an intention to apply for membership, such as by writing a letter seeking to join the Union;
  - (iii) By making an online application to the relevant Branch; or
  - (iv) By making a telephone application to the relevant Branch.
- (d) An application in writing may be addressed to the Union, National Officer, the relevant Branch, a Branch Officer or an employee of the Union. Each such application shall be forwarded to the Branch Secretary of the relevant Branch.
- (e) The relevant Branch Secretary shall provide all applicants for membership with the requisite information in writing. The requisite information consists of:
  - (i) The financial obligations arising from membership; and
  - (ii) The circumstances, and the manner, in which a member may resign from the Union.
- (f) The manner in which the Branch Secretary may comply with the requirements of rule 6(e) include:
  - (i) In the case of an application in writing, by providing the requisite information on an application for membership form;
  - (ii) In the case of an online application, by causing the requisite information to be contained within the online application form; or
  - (iii) In relation to a telephone application or an application received in writing other than on an application for membership form, by ensuring that the applicant for membership does not become a member until after he or she has been provided with the requisite information in writing.
- (g) On receipt of the application for membership:
  - (i) the Branch Secretary shall accept the application for membership, unless the Branch Secretary takes one of the steps referred to in this sub-rule within 14 days of receiving the application for membership;
  - (ii) where the Branch Secretary considers an applicant for membership to be eligible to be a member of the Union but ineligible for membership of the Branch, the Branch Secretary shall refer the application to the Branch where the applicant would, pursuant to the provisions of rule 38, be attached. An application so referred under this rule is treated as if it was an application made under rule 6(c);

- (iii) where the Branch Secretary considers an applicant for membership to be ineligible for membership of the Union, and the applicant wishes to pursue the application, the Branch Secretary shall refer the application to the Branch Committee of Management;
  - (iv) where the applicant has been previously expelled by the Union, the Branch Secretary shall refer the application to the National Executive; or
  - (v) where the applicant has previously been a member of the Union and owes a debt to the Union, the Branch Secretary shall either accept the application unconditionally, or accept it on the condition that the applicant shall first pay the whole or part of the debt owed, or otherwise refer the matter to the Branch Committee of Management.
- (h) Where an application has been referred to the Branch Committee of Management it may accept, reject or defer the application or, in the case of a referral under rule 6(g)(v), it may accept the application subject to the condition that the applicant shall first pay the whole or part of the debt owed. When a person whose name has been purged from the register applies to rejoin, the Branch Committee of Management may accept the application subject to the condition that the applicant shall first pay the whole or part of the dues that would have been payable if they had not been purged from the register.
- (i) Where any application referred to the Branch Committee of Management is not accepted unconditionally within three months of its receipt by the Branch Committee of Management, the applicant may appeal to the National Executive whose decision shall be final.
- (j) Where the applicant has been previously expelled by the Union, the National Executive shall determine whether the person should be readmitted as a member. The National Executive may make readmission to membership subject to the condition that the applicant repay any debt owed.
- (k) Subject to rule 6 (l), an applicant for membership becomes a member of the Union as from:
- (i) where the application is accepted unconditionally, the date of receipt of the application;
  - (ii) where the application is accepted subject to the condition that the applicant shall first pay the whole or part of the debt owed, the date of fulfilment of that condition;
  - (iii) in any other case where the application has not been rejected, the date of receipt of the application.
- (l) Notwithstanding anything in this rule, an applicant for membership does not become a member:
- (i) if the Branch Committee of Management rejects the application, unless the National Executive overturns that decision;
  - (ii) if the member owes a debt to the Union and, pursuant to rule 6(g)(v) or 6(h) the Branch Secretary, the Branch Committee of Management or the National Executive has imposed a condition relating to the whole or partial repayment of that debt, and the applicant has not met that condition;
  - (iii) if the applicant has previously been expelled and National Executive has not passed a resolution accepting the application for readmission for membership.
- (m) Notwithstanding anything in this rule, no application for membership shall be void or ineffective only for the reason that the form of application is not fully completed, or that some other form of application is used, or any other procedure under the rules has not been complied with, provided that the applicant for membership intended to, and did in fact, in some way or other, apply for membership and the Union treated the person as a member. The payment of Union dues in whole or in part shall be taken to be, without limiting the generality of the foregoing, a method by which a person intended to, and did in fact, in some way or other, apply for membership and evidences an intention to be or become a member.

**DELETE RULE 7 – MEMBERSHIP AGENCY AND REPLACE WITH WITH THE FOLLOWING  
NEW CLAUSE 7 – CONSEQUENCES OF MEMBERSHIP:**

~~**7 – MEMBERSHIP AGENCY**~~

~~By becoming and/or remaining a member of the Union each member agrees that she/he appoints that Union as his/her agent for the purpose of negotiating and/or agreeing to terms and conditions of employment under which that member is or is to be employed other than where the member has appointed another person under paragraph (c) of sub-section 1 of section 176 of the Fair Work Act 2009 as his or her bargaining representative for a proposed enterprise agreement that is not a greenfields agreement, or has revoked the status of the Union as his or her bargaining representative for the agreement under subsection 178A(2) of the Fair Work Act 2009. This rule shall not detract from the validity of any other agency otherwise in existence prior to the certification of this rule.~~

**7 – CONSEQUENCES OF MEMBERSHIP**

- (a) By becoming or remaining a member of the Union each member agrees that he or she will be bound by these rules, as varied from time to time.
- (b) By becoming or remaining a member of the Union each member agrees that he or she appoints the Union as his or her agent for the purpose of negotiating and agreeing to terms and conditions of employment under which that member is or is to be employed. This agency is subject to the exercise of any statutory right of the member to terminate or vary the terms of the agency. This rule shall not exclude or modify the operation of any other relationship of agency otherwise established by statute, or implicitly established by these rules or the relationship between the Union and the member.

**DELETE RULE 8 – ANNUAL CONTRIBUTIONS:**

~~**8 – ANNUAL CONTRIBUTIONS**~~

- ~~(a) — The annual contributions payable by members shall be such amounts as may from time to time and from such date be determined by the branch committee of management of the appropriate branch.~~
- ~~(b) — Contributions shall be payable 13 weeks in advance.~~
- ~~(c) — Notwithstanding anything contained in these Rules —~~
  - ~~(i) — the National Executive or a Branch Committee may make arrangements with any employer whereby with the authority of any member or members of the Union contributions payable to the Union are to be deducted by the employer from the salary or salaries of the member or members on a regular basis and paid to the Union;~~
  - ~~(ii) — a member who has authorised such deduction of his/her contribution to the Union from his/her salary shall, subject to the provisions of paragraph (iii) of this clause, be deemed a financial member of the Union so long as such authority remains in force and provided that such member owes no arrears of contributions, fines, fees or levies;~~
  - ~~(iii) — where an arrangement referred to in this clause is terminated by the employer or the National Executive or a Branch Committee, the National Secretary or the Branch Secretary may notify in writing any member affected by such termination and a member so notified shall thereupon become liable to pay and shall, within twenty eight days from the date of such written notice, pay to the Union the balance of any contribution owing for the relevant~~

~~year (which amount shall be specified in such notice and shall be the amount of the annual contribution payable by that member for that year less such amount or amounts as has or have been deducted by the employer from that employee's salary in respect of such annual contribution) and thereafter shall be liable to pay contributions in accordance with this Rule.~~

~~(d) All contributions, fees, fines and levies payable by members of the Union shall be paid to and collected by the appropriate Branch Secretary or his/her duly appointed agent.~~

~~(e) A Branch Committee, upon receipt of a written application by a member, shall have power to exempt such member from the payment either wholly or in part of any contributions, fees or levies payable by such member.~~

~~(f) Notwithstanding anything contained elsewhere in these Rules:~~

~~(i) A member may apply in writing to the Secretary of his/her Branch to pay his/her contributions by instalments paid fortnightly, monthly, quarterly (once every three months), or half yearly (once every six months), on a basis of one twenty sixth, one twelfth, one quarter, or one half, respectively, of the annual contribution payable. A member may apply to pay such instalments by any of the following methods:~~

~~A. by direct debit from a bank and/or financial institution account;~~

~~B. by a charge or credit card;~~

~~C. by cheque;~~

~~D. by cash; or~~

~~E. any other method approved by Branch Committee.~~

~~(ii) A member shall be deemed to have made application in writing to pay his/her contributions by instalments upon receipt of documentation by the Branch which shows that member has paid or has authorised payment of his/her contributions by periodic instalments available under paragraph (f)(i), and by one of the methods referred to in that paragraph (f)(i). Any such application made before the commencement date shall be treated as an application for the purposes of this Rule.~~

~~(iii) A Branch Committee shall have power to determine that on receipt of any written application or applications, any or all or any class or classes of members who apply to pay contributions by instalments, shall be permitted to do so by instalments from the date of such application, and may exercise that power in advance of or in anticipation of applications by members to pay contributions by instalments.~~

~~(iv) Where a member is permitted to pay his/her contributions by instalments in accordance with this Sub Rule, the permission shall take effect from the date the member commences to so pay.~~

~~(v) Where a member's payment of an instalment has not been received by the Branch by the date on which it was due, the Branch Secretary shall notify that member:-~~

~~A. the Branch has not received that member's instalment payment;~~

~~B. of the consequences to the member of failure to pay that instalment as provided by this Rule; and~~

~~C. of the amount of the balance of the member's annual contribution owing for the year to which that contribution relates.~~

- ~~(vi) A member notified in accordance with paragraph (v) above shall pay the instalment within 21 days from the date of the written notice from the Branch Secretary. A member who fails to pay that instalment within those 21 days shall cease to be entitled to pay the membership contribution by instalment and shall within a further 7 days from those 21 days be liable to pay the balance of that member's contribution for the relevant year.~~
- ~~(vii) A member shall be liable to pay contributions for any period for which the Branch has not received a payment by instalment. A member owing contributions, fines, fees or levies equivalent to an amount in excess of 13 weeks' contributions shall be deemed to be unfinancial.~~
- ~~(viii) This Sub Rule 8(f)(viii) applies to any member who has prior to the commencement date made or caused a payment to be made or documentation to have been provided to the Secretary of the Branch which showed an intent to pay his/her contributions by periodic instalments as described in paragraph (f)(i) and (ii), and by one of the methods therein, and did pay any such instalment. Such a member shall on and after the commencement date be taken to have applied to and have been permitted to (and by this Sub Rule also is retrospectively permitted to) pay his/her contributions by instalment from the date the member made the payment, and shall be treated as a financial member for all purposes in respect of the periods of time to which such payments are referable.~~

## **INSERT NEW 8 – LIFE MEMBERS:**

### **8 - LIFE MEMBERS**

#### **A. National Life Member**

- (a) The National Council, by a two thirds majority vote, upon a recommendation of the National Executive, may grant National life membership to a member or former member as a mark of appreciation for services rendered to the Union.
- (b) A National life member who is no longer in employment shall not be liable for payment of any Union dues.
- (c) Unless he or she continues to pay Union dues as they fall due, a National life member shall not be entitled to vote at any meeting, election or ballot and shall not be entitled to nominate for or hold any office.
- (d) A person may be granted National life membership where he or she has been a member for a minimum of fifteen years and has been an active member in the National affairs of the Union for a minimum of eight years. Being an active member for this purpose shall include, but is not limited to, serving as a member of National Council, a member of National Executive, a National Officer or a National Office employee. If special circumstances exist, a person may be granted National life membership notwithstanding the fact that he or she does not meet the criteria specified in this subrule.
- (e) A person who was granted life membership of the Union pursuant to the rules in force prior to the certification of this rule shall be deemed to be a National life member.
- (f) The National Council may cancel the grant of National life membership for any reason which to it seems proper, and shall forward written notice of such cancellation to the member concerned at his or her last known place of residence.
- (g) Nothing in this rule shall prevent a National life member also being bestowed a Branch life membership.

#### **B. Branch Life Member**

- (a) A Branch Committee of Management, by a two thirds majority vote, may grant Branch life membership to a member or former member as a mark of appreciation for services rendered to the Union.
- (b) A Branch life member who is no longer in employment shall not be liable for payment of any Union dues .
- (c) A Branch life member:
  - (i) Shall be entitled to attend and speak at all general meetings of his or her Branch;
  - (ii) Unless he or she continues to pay Union dues as they fall due, a Branch life member shall not be entitled to vote at any meeting, election or ballot and shall not be entitled to nominate for or hold any office.
- (d) A member may be granted Branch life membership where he or she has been a member for a minimum of fifteen years and has been an active member in the affairs of the Branch for a minimum of eight years. Being an active member for this purpose shall include, but is not limited to, serving as a Sub-Branch Committee member, Sub-Branch representative, delegate, Councillor, member of the Branch Committee of Management, an employee or officer of the Branch. If special circumstances exist, a person may be granted Branch life membership notwithstanding the fact that he or she does not meet the criteria specified in this sub-rule.
- (e) The Branch Committee of Management may cancel the grant of Branch life membership for any reason which to it seems proper, and shall forward written notice of such cancellation to the member concerned at his or her last known place of residence.
- (f) Nothing in this rule shall prevent a Branch life member also being bestowed a National life membership.

**DELETE RULE 9 – LEVIES:**

**~~9 – LEVIES~~**

- ~~(a) — The National Council shall have power to impose levies upon any one or more branches or upon the members of any specific category of the membership of the Union provided that such levy may only be imposed by a two thirds majority of the National Council and provided that such a levy shall not be imposed in a harsh or discriminatory manner.~~
- ~~(b) — A Branch Committee shall have power to impose levies on members of the branch, provided that such levies shall not in any financial year exceed 20% of the annual contribution then in force per member unless approved by a general meeting of members of the branch.~~

**INSERT NEW RULE 9 – REGISTER OF MEMBERS:**

**9 - REGISTER OF MEMBERS**

- (a) A register of members shall be kept and maintained by the Union in the form, and containing the information, required by statute.
- (b) The register of members must be arranged to record to which Branch each member belongs.



## DELETE RULE 10 – FINANCIALITY RULE:

### ~~10 – FINANCIALITY RULE~~

- ~~(a) A member owing contributions, fines, fees or levies equivalent to an amount in excess of 13 weeks contributions shall be deemed to be unfinancial.~~
- ~~(b) An unfinancial member shall not be entitled
  - ~~(i) to any of the rights and privileges of membership;~~
  - ~~(ii) to nominate for or hold any office or in any way participate in any ballot or election in the Union or any branch of the Union;~~
  - ~~(iii) to attend or speak or vote at any meeting of the Union or branch of the Union.~~~~
- ~~(c) Any member exempted pursuant to Rule 8(e) of these Rules from payment either in whole or in part of any contribution, fee or levy shall, for the purposes of these Rules, retain continuity of membership and be deemed financial but shall not, during the period of exemption, be eligible to nominate for or hold any office in the Union or any branch of the Union.~~
- ~~(d) Sections (e) and (f) of this rule apply where Branches of the Union are affiliated to state registered organisations.~~
- ~~(e) Notwithstanding anything elsewhere contained in these Rules members of the Union in a Branch of the Union who is or becomes a member of an affiliated state registered organisation and who pays or has paid contributions to the affiliated state registered organisation in an amount equivalent to or greater than the amount payable by that member as contributions to the Branch of the Union under these rules shall be deemed for all purposes of these rules a financial member of the Union and shall be treated as a financial member for all purposes in respect of the periods of time to which such payments to the affiliated state registered organisation are referable.~~
- ~~(f) For avoidance of doubt, if a member who so pays or paid contributions to the affiliated state registered organisation in an amount equivalent to or greater than the amount payable by that member as contributions to the branch of the Union under these Rules shall not be required to pay contributions to the Branch of the Union in respect of the periods of time to which such payments to the affiliated state registered organisation are referable.~~
- ~~(g) For the purposes of sub rules (e) and (f) above, an affiliated state registered organisation shall include the Health Services Union NSW being an organisation registered pursuant to the provisions of the *Industrial Relations Act 1996* (NSW).~~

### 10 - TERMINATION OF MEMBERSHIP

- (a) Membership of the Union shall be terminated:
  - (i) by the death of the member;
  - (ii) by resignation in accordance with rule 10(b)-(h);
  - (iii) by the member ceasing to be eligible to become a member of the Union, subject to the conditions mentioned in rule 10(i)-(j);
  - (iv) by being purged from the register in accordance with rule 10(k)-(o);
  - (v) by expulsion in accordance with these rules 13 or 28.

#### Termination by resignation

- (b) A member may resign from membership of the Union by notice in writing addressed and delivered to the Secretary of the member's Branch.
- (c) Where the member ceases to be eligible to become a member of the Union, the notice of resignation will take effect on the later of the following two dates:
  - (i) on the day on which the notice is received; or
  - (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceased to be eligible to become a member.
- (d) Where the member has not ceased to be eligible to become a member of the Union, the notice of resignation will take effect on the later of the following two dates:
  - (i) at the end of two weeks after the notice is received by the Union; or
  - (ii) on the day specified in the notice.
- (e) A notice delivered to the Secretary of the member's Branch shall be taken to have been received by the Union when it was delivered.
- (f) A notice of resignation that has been received by the Union shall not be invalid because it was not addressed and delivered in accordance with rule 10(b).
- (g) A resignation from membership of the Union shall be valid even if it is not effected otherwise in accordance with these rules if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.
- (h) Any dues payable but not paid by a former member, in relation to a period before the resignation took effect, shall be the amount owed by the member and may be recovered in accordance with rule 11.

#### **Termination because the member ceases to be eligible**

- (i) Membership terminates automatically when the member ceases to be eligible to be a member of the Union unless the person is a National or Branch life member, in which case the person shall continue to be a National or Branch life member.
- (j) A person who is a member of the Union because the person is eligible for membership by virtue of rule 3C, 3D or 3E shall, unless otherwise eligible to become or remain a member of the Union, automatically cease to be a member of the Union when he or she ceases to hold the office or position referred to in that rule.

#### **Termination as the result of purging the register**

- (k) A member who is unfinancial for more than six months may cease to be a member as the result of the purging of the register of members.
- (l) Each Branch Secretary shall, from time to time, review the register of the Branch's members and identify the names of members of the Branch who have been unfinancial for more than three months. The Branch Secretary shall write to each such member to his or her last address shown on the register and give the member one month's written notice of the intention to strike his or her name off the register.
- (m) If the member does not become financial within a month of the letter being sent, the member's name shall be purged from the register of members. The member shall cease to be a member when his or her name is purged from the register.

- (n) A member who is unfinancial for more than two years automatically ceases to be a member and the name of the member shall be purged from the register. The process described in rule 10(l)-(m) need not be completed for a person has been unfinancial for more than two years.
- (o) When a member whose name has been purged from the register applies to join the Union, the process referred to in rule 6(g)(v) shall apply.

## **DELETE RULE 11 – TRANSFER OF MEMBERS:**

### **~~11 – TRANSFER OF MEMBERS~~**

~~Members desirous of transferring from one Branch to another shall apply to the Secretary of his/her Branch for a transfer certificate and if the member be in arrears and unable to pay same, the amount of arrears shall be shown on the certificate. The member's acceptance of the certificate shall be proof of its correctness. Such arrears shall become a debt due to the Branch from which he/she receives the certificate, and the member may be sued in accordance with these Rules for recovery of arrears, such arrears to count as ordinary arrears due to that Branch. Any member leaving the one Branch in arrears and attempting to join the Union as a new member shall be dealt with by the National Executive and be liable to a fine, and to pay the full amount of arrears from the date he last reported himself/herself to a Branch Secretary, without exceptions or reductions being granted.~~

## **INSERT NEW RULE 11 – UNION DUES:**

### **11 – UNION DUES**

- (a) Union dues describes the amounts payable by members to the Union and consists of:
  - (i) Annual contributions;
  - (ii) Levies; and
  - (iii) Fees.

#### **Setting the level of Union dues**

- (b) The annual contributions payable by members shall be such amounts as may from time to time be determined by the Branch Committee of Management of the member's Branch.
- (c) A Branch Committee of Management may impose levies on members of the Branch or on the members of any specific category of the membership of the Branch, provided that such a levy must not be oppressive, unreasonable or unjust.
- (d) A Branch Committee of Management, or any officer authorised by the Branch Committee of Management, may, at the member's request, decide to waive a member's annual contribution or any levy imposed by the Committee, in whole or in part, for such time as it decides because of the member's special circumstances.
- (e) A Branch Committee of Management may impose a fee on a member in such amount as the Committee determines.
- (f) The National Council, by a two thirds majority vote, may impose a levy or levies upon any one or more Branches or on the members of any specific category of the membership of the Union, provided that such a levy must not be oppressive, unreasonable or unjust.

#### **How union dues may be paid**

- (g) Union dues shall be paid to and collected by the relevant Branch Secretary or a person acting on his or her behalf.
- (h) A member may pay Union dues by any one or more of the following methods:
  - (i) by payroll deductions;
  - (ii) by direct debit from a bank or financial institution or any other form of electronic funds transfer;
  - (iii) by a charge or credit card;
  - (iv) by cheque;
  - (v) by cash; or
  - (vi) any other method approved by Branch Committee of Management.

#### **When dues are payable**

- (i) Annual contributions shall be payable in advance. Annual contributions may be paid in equal instalments either fortnightly, monthly, quarterly (once every three months), or half-yearly (once every six months), or by such other periods as the Branch Committee of Management determines.
- (j) The committee of management setting the levy or fee under this rule may determine the time the levy or fee is payable and whether the levy or fee is payable by instalments. If no time is specified, the levy or fee is payable within 3 months of the date the levy or fee was established.

#### **Non-payment of Union dues**

- (k) Where a member's payment of Union dues has not been received by the Branch within one month of the date on which it is due, the Branch Secretary shall notify the member:
  - (i) The dues have not been received;
  - (ii) The amount of the balance of the member's dues owing;
  - (iii) That if the member does not pay the dues owing within three months of the due date then member shall be unfinancial.

#### **Recovery of Union dues**

- (l) Each Branch Secretary is authorised to proceed against any member or former member attached to that Branch in the name of the Union for the recovery of any Union dues that are owed and may instruct any other person to take the necessary action for the recovery of such dues. This rule does not limit any other power in these rules to seek recovery of any Union dues that are owed.

#### **DELETE RULE 12 – LIFE MEMBERS:**

#### ~~**12 – LIFE MEMBERS**~~

- ~~(a) The National Council, upon a recommendation of the National Executive made at the request of the appropriate Branch Committee, may grant life membership to a member or former member as a mark of appreciation for services rendered to the Union.~~
- ~~(b) A life member shall not be liable for payment of any contributions, fees or levies.~~

- ~~(c) — A life member —~~
- ~~(i) — Shall be entitled to attend all general meetings of his/her branch and speak thereat, but,~~
- ~~(ii) — Unless he/she continues to pay contributions, fees and levies as they fall due, shall not be entitled to vote at any such meeting nor nominate for nor hold any office nor participate in any way in any election or ballot in the Union or any branch of the Union.~~
- ~~(d) — A member is eligible for consideration by National Council as a life member, where such a member has had a minimum of fifteen years membership of the Union of which at least 10 years have been as active members of the Union. Activity for this purpose shall be such as a Sub Branch Committee member, Non Sub Branch representative, delegate, Councillor, Branch Committee of Management, an employee and/or Official of the Union.~~
- ~~(e) — Notwithstanding anything else in these rules, National Executive can determine candidates eligible for life membership who do not meet the criteria set out in subclause (d) where special and/or exceptional circumstances warrant such consideration.~~
- ~~(f) — Notwithstanding the foregoing, a person who was granted honorary life membership of the Union pursuant to the Rules in force prior to the certification of this Rule shall be deemed to be a life member pursuant to this Rule.~~
- ~~(g) — The National Council may cancel such life membership or honorary life membership for any reason which to it seems proper, and shall forward written notice of such cancellation to the member concerned at his/her last known place of residence. Such member shall thereupon become liable to pay such contributions, fees and levies thereafter becoming payable.~~

## **INSERT NEW RULE 12 – FINANCIAL AND UNFINANCIAL MEMBERS:**

### **12 – FINANCIAL AND UNFINANCIAL MEMBERS**

- (a) Where a member's payment of Union dues has not been received by the Branch within three months of the date on which it is due, the member shall be unfinancial. A member who is not an unfinancial member shall be a financial member for the purposes of this rule.
- (b) An unfinancial member shall not be entitled -
- (i) to any of the rights and privileges of membership;
  - (ii) to nominate for or hold any office in the Union or any Branch;
  - (iii) to participate in any ballot or election in the Union or any Branch;
  - (iv) to attend, speak at or vote in any meeting of the Union or Branch.
- (c) When the Branch Committee of Management has decided to waive a member's annual contribution or any levy, the member:
- (i) shall retain continuity of membership and be deemed financial for the period covered by the waiver;
  - (ii) shall not, during the period covered by the waiver, be eligible to nominate for or hold any office in the Union or any Branch of the Union.
- (d) If a member of a Branch pays Union dues to an affiliated state registered organisation in an amount equivalent to or greater than the amount payable by that member as Union dues to the Branch under these rules, then:

- (i) He or she shall not be required to pay contributions to the Branch in respect of the periods of time to which such payments to the affiliated state registered organisation are referable; and
  - (ii) Shall be a financial member of the Union in respect of the periods of time to which such payments to the affiliated state registered organisation are referable.
- (e) For the purposes of sub-rule (d), the affiliated state registered organisations are Health Services Union NSW and the Health Services Union of WA (Union of Workers).

**DELETE RULE 13 – TERMINATION OF MEMBERSHIP:**

**~~13 – TERMINATION OF MEMBERSHIP~~**

- ~~(a) Membership of a member of the Union shall be terminated:~~
- ~~(i) by resignation in accordance with these Rules,~~
  - ~~(ii) by expulsion in accordance with these Rules,~~
  - ~~(iii) by the member's ceasing to be eligible to become a member of the Union other than by being elected as a Member of Parliament or unless the member is a life member pursuant to Rule 12 of these Rules.~~
- ~~Provided that any person who is or becomes a member of the Union by virtue solely of her/his election or appointment or employment as a full time officer or organiser or employee (other than clerical or administrative employee) of the Union or any Branch thereof shall, unless otherwise eligible to become or remain a member of the Union, forthwith cease to be a member of the Union upon her/his ceasing to hold such position in the Union or Branch.~~
- ~~(b) A member may resign from membership of the Union by notice in writing addressed and delivered to the Secretary of the member's Branch.~~
- ~~(c) A notice of resignation from membership of the Union shall take effect:~~
- ~~(i) where the member ceases to be eligible to become a member of the Union –~~
    - ~~A. on the day upon which the notice is received by the Union, or~~
    - ~~B. on the day specified in the notice, which is a day not earlier than the day when the member ceased to be eligible to become a member,~~
  - ~~whichever is the later; or~~
  - ~~(ii) in any other case –~~
    - ~~A. at the end of two weeks after the notice is received by the Union, or~~
    - ~~B. on the day specified in the notice,~~
  - ~~whichever is the later.~~
- ~~(d) A notice delivered to the Secretary of the member's Branch shall be taken to have been received by the Union when it was delivered.~~

- ~~(e) — A notice resignation that has been received by the Union shall not be invalid because it was not addressed and delivered in accordance with paragraph (b) of this Rule.~~
- ~~(f) — A resignation from membership of the Union shall be valid even if it is not effected in accordance with the foregoing provisions of this Rule if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.~~

**DELETE RULE 14 – RE-ADMISSION TO MEMBERSHIP:**

~~**14 – RE-ADMISSION TO MEMBERSHIP**~~

~~The re-admission to membership of persons who have been expelled from the Union, shall be conditional on the payment of any monies owing by such person to the Union in respect of his/her earlier membership and subject to the approval of the application by the National Executive.~~

**DELETE RULE 15 – RECOVERY OF CONTRIBUTIONS ETC.:**

~~**15 – RECOVERY OF CONTRIBUTIONS ETC.**~~

- ~~(a) — Each Branch Committee is authorised to proceed against any member or former member attached to that branch in the name of the Union for the recovery of any contributions, fines, fees, levies or dues in arrears and may instruct the Branch Secretary or any other person to take the necessary action for the recovery of such arrears.~~
- ~~(b) — If an unfinancial member, on being served with a written demand for payment of his/her arrears forwarded to his/her address appearing on a members' register, fails within a period of thirty days to comply with such demand the Branch Secretary may be instructed by the Branch Committee to sue for the recovery of such arrears.~~

**DELETE RULE 16 – PURGING THE REGISTER:**

~~**16 – PURGING THE REGISTER**~~

- ~~(a) — Each Branch Secretary shall from time to time as directed by his/her Branch Committee strike off the register of members the names of all members owing contributions, fines, fees, levies or dues for a period of twenty six weeks.~~
- ~~(b) — The Branch Secretary shall give to each member whose name is proposed to be struck off, one month's written notice to his/her last address shown on the register of the intention to strike his/her name off the register.~~
- ~~(c) — The National Secretary shall be advised of all names struck off the register within fourteen days of such striking off.~~
- ~~(d) — No member whose name has been struck off the register shall have his/her name replaced thereon unless and until he/she has paid all monies due by him/her to the Union.~~

**RENUMBER RULE 17 – MISCONDUCT OF MEMBERS AND UNION OMBUDSMAN AS RULE 13 AND AMEND AS FOLLOWS:**

### ~~17~~ 13 - MISCONDUCT OF MEMBERS AND UNION OMBUDSMAN

- (a) The National Council by at least a two thirds majority shall ~~at the National Council meeting of each year~~, appoint the Union Ombudsman. ~~However a~~ A person cannot be appointed to the position of Ombudsman where three or more ~~B~~branches object to the appointment.
- (b) Any financial member of the Union may raise a complaint with the Ombudsman ~~over the actions about the conduct~~ of a member (including an ~~a~~ Branch Officer). ~~The Ombudsman shall investigate and report to the National Executive any alleged impropriety or misdemeanour that a Sub Branch Committee member, elected Officer or paid official of the Union is alleged to have committed. A~~ complaint cannot be raised with the Ombudsman about a National Officer. Any allegations of misconduct about National Officers are dealt with under rule 28.
- (c) The Ombudsman shall investigate any complaint raised with him or her and report to the National Executive.
- ~~(e)~~(d) Such complaints ~~alleging impropriety or misdemeanour committed by a member~~ can include the following:
- (i) divulging any of its confidential business to anyone not entitled to know the same or,
  - (ii) refusing to obey any of the ~~R~~rules of the Union; or
  - (iii) refusing to abide by a resolution carried at any meeting of the National Council or National Executive, or of ~~his/her~~ his or her Branch or of its Committee; or,
  - (iv) defrauding or attempting to defraud the funds of the Union or a ~~b~~Branch; or,
  - (v) making a false charge against a fellow member; or,
  - (vi) violating or attempting to violate the terms of any industrial award or agreement; or,
  - (vii) entering or attempting to enter into any agreement with any employer contrary to the provisions of any award or agreement secured by the Union and applicable to ~~him/her~~ him or her; or,
  - (viii) obstructing the National Council, National Executive or Branch Committee or other lawful committee or body of the Union or ~~b~~Branch in any way in the performance of any of its functions; or,
  - (ix) obstructing any officer of the Union or a ~~b~~Branch in the course of ~~his/her~~ his or her duties; or,
  - (x) wrongfully holding himself or ~~herself~~ out as occupying any office or position in the Union or any ~~b~~Branch of the Union or as being entitled to represent the Union or any ~~b~~Branch thereof in any capacity (to which charge it shall be a defence that the member believed bona fide and on reasonable grounds that he/she was entitled to so act); or,
  - (xi) behaving in a disorderly manner at any meeting held under these ~~R~~rules or in the office of the Union or any ~~b~~Branch thereof; or,
  - (xii) aiding or encouraging any other member or members in any offence under this ~~R~~rule.
- ~~(e)~~(e) Referral of matters to the Union Ombudsman shall not occur until processes to deal with the matter at a ~~b~~Branch level have been exhausted.



- (e)(f) ~~In any such report,~~ Any report to the National Executive by the Ombudsman shall include ~~his/her~~ his or her conclusions as to the validity of any allegations, as well as recommendations for action to be taken by the National Executive if any action is deemed necessary by the Ombudsman.
- (f)(g) Any reports from the Ombudsman will be provided to the party alleging the impropriety and the party under investigation prior to the report being considered by National Executive. Where such a report recommends action be taken against any party, such party shall be afforded the opportunity to respond and put their case to the National Executive before action is considered by National Executive.
- (g)(h) Any allegations made against the Union Ombudsman shall be the subject of investigation by not less than three members of the National Executive.
- (h)(i) Where a member is unhappy with the decision of the National Executive, the matter can be referred to the National Council for consideration.

## **DELETE RULE 18 – RULE BOOK**

### **~~18 – RULE BOOK~~**

~~Each member shall be supplied with a copy of the registered Rules of the Union upon application to his/her Branch Secretary.~~

## **PART B - NATIONAL ORGANISATION**

### **RENUMBER AND RENAME RULE 19 – OFFICERS OF THE UNION AS RULE 14 – NATIONAL OFFICERS AND AMEND AS FOLLOWS:**

#### **~~19 14 – NATIONAL OFFICERS OF THE UNION~~**

- (a) The National Officers of the Union ~~shall be~~ are the National President, the National Senior Vice-President, National Junior Vice-President, the two National Trustees, the National Secretary, ~~the Senior National Assistant Secretary~~ and the National Assistant Secretary ("National Officers").
- (b) The National Council shall determine from time to time whether any of the offices of the Union ~~National Secretary and Senior National Assistant Secretary~~ shall be full-time paid offices provided that the status of an ~~either of those offices~~ office as a full-time paid ~~offices~~ office may not be varied during the term of office of an incumbent holder of that office without the consent in writing of that holder of the office.

### **RENUMBER RULE 20 – NATIONAL COUNCIL AS RULE 15 AND AMEND AS FOLLOWS:**

#### **~~20 15 - NATIONAL COUNCIL~~**

- (a) The National Council shall consist of -
- (i) the National Officers ~~of the Union~~, and,
- (ii) delegates elected by and from each ~~b~~B Branch on the basis of one delegate for every 1000 members or part thereof up until 10,000 members, and one delegate for every 2,000 thereafter.

- (b) For the purposes of this ~~R~~rule, the membership of a ~~b~~Branch shall be the financial membership of that ~~b~~Branch certified as such by the Branch Secretary Committee as at 31st December, in the year immediately preceding an ordinary election of delegates to National Council pursuant to ~~R~~rule 29 of these rules; provided that:-
- (i) if, as at the 31st December, in any subsequent year prior to the year immediately preceding the next following ordinary election of delegates to National Council pursuant to ~~R~~rule 29 of these rules, the membership of a Branch certified as such by the Branch Secretary Committee has increased to such an extent as would increase the number of delegates to which that Branch would be entitled pursuant to ~~paragraph~~ sub-rule (a)(ii) of this ~~R~~rule, that Branch shall be entitled to elect or appoint extra delegate or delegates in accordance with ~~R~~rule 29A(j) of these ~~R~~rules as if it were filling an extraordinary or casual vacancy or vacancies, and,
- (ii) if, as at the 31st December, in any subsequent year prior to the year immediately preceding the next following ordinary election of delegates to National Council pursuant to ~~R~~rule 29 of these ~~R~~rules, the membership of a Branch certified as such by the Branch Secretary Committee decreases the number of delegates to which that Branch is entitled shall not thereby decrease.
- (c) Where a delegate of a ~~b~~Branch becomes an National Officer ~~of the Union~~, ~~he/she~~ he or she shall cease to be and act as a delegate of that ~~b~~Branch and that ~~b~~Branch shall be entitled to elect or appoint a delegate in ~~his/her~~ his or her place in accordance with ~~R~~rule ~~41~~ 23A(h)(i) ~~of these Rules~~.
- (d) The National Officers ~~of the Union~~ shall be ex-officio members of any committee or sub-committee of the National Council or National Executive.
- ~~(e) — Unless a branch has prior to the commencement of a meeting of the National Council paid to the National Council all monies owing by it to the National Council pursuant to these Rules, its delegates to the National Council shall not be entitled to attend and participate in such meeting.~~

**RENUMBER RULE 21 – POWERS AND DUTIES OF NATIONAL COUNCIL AS RULE 16 AND AMEND AS FOLLOWS:**

**~~21~~ 16 - POWERS AND DUTIES OF NATIONAL COUNCIL**

The National Council shall, subject to these ~~R~~rules and the control by the members ~~as hereinafter mentioned~~, be the supreme governing body of the Union and have the management and control of the affairs of the Union and, without limiting the generality of the foregoing, shall in particular have power:-

- (a) to determine and direct the policy of the Union in all matters affecting the National Council or the Union as a whole;
- (b) to make, add to, amend, rescind and/or otherwise alter these ~~R~~rules;
- (c) to set the wages, conditions of employment and entitlements for any National Officers holding offices determined by the National Council to be paid offices pursuant to ~~R~~rule ~~19~~14(b) and the entitlements of any other National Officers;
- (d) to fix the remuneration to be paid to any National Returning Officer;
- ~~(e) — to employ and terminate the employment of any National Office Staff who are not National Officers and to set the wages and conditions of employment of such staff;~~

- ~~(e)~~(e) to resolve that the Union affiliate with or amalgamate with or absorb any other organisation or body;
  - ~~(g)~~(f) to hear and determine appeals from Branches and members;
  - ~~(h)~~(g) to appoint any person to represent the Union before any Court, Commission, Board, Tribunal or other authority.
  - ~~(i)~~ — to appoint a National Auditor and to fix the remuneration to be paid to the same;
  - (h) to exercise any other powers and perform any other functions conferred on it by these rules;
  - ~~(j)~~(i) to delegate its authority on all routine or other matters to the National Executive;
  - ~~(k)~~(j) to establish any committees or sub-committees as it may from time to time determine provided that any such committee or sub-committee, shall not exercise any executive powers but shall have and exercise only advisory powers;
  - ~~(l)~~(k) to interpret these ~~R~~rules; and,
  - ~~(m)~~(l) to direct ~~the investment of the funds of the Union~~ National Executive in its control of the Union's funds, property and investments and the policies and procedures governing those matters;
  - ~~(n)~~ — to dispose of or transfer any of the funds of the Union or any securities in which the funds of the Union have been invested.
- ~~(o)~~All decisions of the National Council shall be final and shall remain in force unless and until varied, amended or rescinded by it or by a plebiscite of members of the Union.
- ~~(p)~~Provided that none of the powers conferred on the National Council by these ~~R~~rules shall enable the National Council to alter an Entrenched ~~R~~rule as defined herein.

**RENUMBER RULE 22 – MEETINGS OF NATIONAL COUNCIL AS RULE 17 AND AMEND AS FOLLOWS:**

**~~22~~ 17 - MEETINGS OF NATIONAL COUNCIL**

- (a) The National Council shall meet annually in the month of September, October or November on a date and time as is determined by the National Council or the National Executive or the National Secretary in conjunction with the National President.
- (b) Special meetings of the National Council shall be held by resolution of the National Council or National Executive or by decision of the National Secretary in conjunction with the National President.
- (c) The National Secretary shall give each Branch Secretary and each member of the National Council at least 21 days clear notice of the annual meeting of National Council and ~~fourteen~~ 14 days' clear notice of any special meeting of National Council ~~thereof~~.

**RENUMBER RULE 23 – AGENDA FOR NATIONAL COUNCIL AS RULE 18 AND AMEND AS FOLLOWS:**

**~~23~~ 18 - AGENDA FOR NATIONAL COUNCIL**

- (a) Not less than 60 days prior to an annual meeting of the National Council, the National Secretary shall invite Branches to submit items for the agenda, such items to be forwarded to the National Secretary not less than 28 days prior to the commencement of National Council.
- (b) The National Secretary shall, upon receipt of such items, prepare and forward to each Branch Secretary and each member of the National Council a copy of the agenda paper at least 21 days prior to the annual meeting of National Council.
- (c) National Executive shall have power to submit items for consideration by National Council and such items shall be included on the agenda paper referred to in ~~paragraph sub-rule (b) of this Rule.~~
- (d) The agenda paper for a special meeting of National Council shall be forwarded with the notice of such meeting.
- (e) National Council may, at any of its meetings, deal with any matter whether or not that matter has appeared or appears on the agenda paper, provided that a two-thirds majority of the members of National Council present and voting vote in favour of the particular item being considered.

## **DELETE RULE 24 – FARES AND EXPENSES**

### ~~**24 – FARES AND EXPENSES**~~

~~National Executive shall determine from time to time the fares and expenses to be paid to or on behalf of members of the National Executive when attending meetings of the same or when attending to the business of the Union. In the case of Branch delegates to National Council, such fares and expenses shall be paid by the Branch concerned and in the case of National Executive members such fares and expenses shall be paid out of the funds of the Union.~~

## **RENUMBER RULE 25 AS RULE 19 AND AMEND AS FOLLOWS:**

### **25 19 - MATTERS REQUIRING DECISION BETWEEN NATIONAL COUNCIL MEETINGS**

- (a) The National Executive or the National Secretary in conjunction with the National President may determine that any matter requires a decision of the National Council between annual meetings of the National Council and that such matter be submitted to the National Council for decision in accordance with either of the procedures prescribed by clauses (b) and (c) ~~of this Rule.~~
- (b)
  - (i) Where it is determined that the matter be submitted to the National Council for decision by ballot of the members of the National Council, such matter may be forwarded by post, email or such other communication device that provides a copy to each of the members of the National Council in such form as is determined by the National Executive.
  - (ii) The members of National Council shall record their vote of the matter so submitted by post, email or such other communication device that provides a written copy addressed to the National Secretary and the decision of the majority shall be binding as if such decision were obtained by vote at a regularly constituted meeting of the National Council.
  - (iii) All votes of their confirmation shall be signed by members of National Council recording the same. If any vote be recorded by means other than letter then such vote shall be confirmed by letter signed by the member of the National Council.

- (c) (i) Where it is determined that the matter be submitted to the National Council for decision by a meeting of members of the National Council conducted by such telephonic or electronic means as may from time to time be available, the National Secretary shall as soon as is practicable arrange such a meeting.
- (ii) The members of the National Council shall participate in such a meeting and the decision of the majority shall be binding as if such decision were obtained at a regularly constituted meeting of the National Council.
- (d) If -
  - (i) in the course of a ballot conducted pursuant to ~~clause sub-rule (b) of this Rule~~, a majority of members of the National Council notify the National Secretary, or,
  - (ii) in the course of a meeting conducted pursuant to ~~clause sub-rule (c) of this Rule~~, a majority of the members of the National Council resolve, that the matter as submitted to them is of such importance as to require a special meeting of the National Council, then such special meeting of the National Council shall be convened forthwith by the National Secretary to meet at such time and place as the National Executive shall determine.
- (e) If a special National Council meeting be held ~~for the purposes of the immediately preceding clause pursuant to sub-rule (d)~~ such other matters as the National Executive or National Council shall determine may be submitted to the meeting.

**RENUMBER RULE 26 AS RULE 20 AND AMEND AS FOLLOWS:**

**26 20 - NATIONAL EXECUTIVE**

The National Executive shall consist of the National Officers ~~of the Union~~ and the Branch Secretary of each Branch.

**DELETE RULE 27 –AND REPLACE WITH NEW CLAUSE 21 AS FOLLOWS:**

**21 - POWERS OF NATIONAL EXECUTIVE**

- (a) The National Executive shall have the power to manage, control and conduct the business and affairs of the Union and shall have the power to:
  - (i) to employ and terminate the employment of any National Office Staff who are not National Officers and to set the wages and conditions of employment of such staff;
  - (ii) to appoint a National Auditor;
  - (iii) to dispose of or transfer any of the funds of the Union or any securities in which the funds of the Union have been invested.
- (b) The power referred to in sub-rule (a):
  - (i) Includes each of the powers conferred by these rules on the National Council referred to in rule 16, except the power to change the rules referred to in sub-rule 16(b) and 67, for the avoidance of doubt, does not include a power to alter an Entrenched Rule;

- (ii) Is in addition to any other power expressly or impliedly conferred on the National Executive by these rules;
  - (iii) For the avoidance of doubt, does not include the powers expressly conferred on National Council alone under the rules, such as the power of National Council to grant life membership under rule 8, impose a levy under rule 11, appoint the Union Ombudsman under rule 13, determine the paid offices under rule 14, appoint the National Returning Officer under rule 23, establish and change a Branch under rule 38, adopt Branch rules under rule 39, determine standing orders and rules of debate under rule 71, determine Branch capitation fees under rule 78, determine participation in National Council meetings under rule 80.
  - (iv) Is subject to any other limitation on National Executive's power in these rules;
  - (v) Is subject to the limitation that National Executive must comply with any direction given by National Council about any of the matters the subject of National Executive's powers, including how and when those powers are to be exercised.
  - (vi) Is subject to the limitation that National Executive must comply with any decision made as the result of a National Plebiscite under rule 36.
- (c) Where at a meeting of the National Executive, officers representing not fewer than four Branches so request, a decision of that meeting shall be referred to the Branch Committee of Management of each Branch for consideration.
- (d) If a decision is referred under sub-rule (c), during the 28 days after the making of the decision:
- (i) The decision of the National Executive shall not be implemented;
  - (ii) Neither the National Secretary, nor any other National Officer, has the power to implement the decision.
- (e) If a decision is referred under sub-rule (c) and within 28 days of the decision the Branch Committees of Management of five Branches or more write to the National Secretary objecting to the decision, then:
- (i) The decision of the National Executive shall not be implemented until National Council has determined the matter;
  - (ii) None of the National Officers of the Union have the power to implement the decision until National Council has determined the matter;
  - (iii) The matter the subject of the decision shall be referred to National Council under rule 19; and
  - (iv) Any decision of National Council on the matter has effect in the ordinary manner.
- (f) For the avoidance of doubt, if within 28 days of the decision the Branch Committees of Management of five Branches or more do not write to the National Secretary objecting to the decision, then the decision of National Executive stands from the date the decision was originally made and may be implemented in the ordinary manner.
- (g) The National Secretary, and any other National Officer, shall:
- (i) Be subject to the direction and control of the National Executive in the performance of his or her duties and exercise of his or her powers;
  - (ii) Carry out such other duties, and comply with such directions, as the National Executive may from time to time assign or give to him or her; and

- (iii) Provide such reports to National Executive as required by it concerning the performance of his or her duties, exercise of his or her powers or any other matter concerning the business and affairs of the Union.
- (h) The National Council may review any act or decision of the National Executive.

## ~~27~~ **POWERS OF NATIONAL EXECUTIVE**

- ~~(a) The National Executive shall, subject to these Rules and to the decisions of National Council and to the control of members as hereinafter mentioned, have power (in addition to powers conferred on it elsewhere in these Rules) to conduct and manage the affairs of the Union including the powers specified in rule 21(e) and between meetings of the National Council may exercise all the powers of National Council except the power to grant life membership and the power to make, add to, amend, rescind and/or otherwise alter these Rules. Provided that none of the powers of the National Executive shall enable the National Executive to alter an Entrenched Rule as defined herein.~~
- ~~(b) Where, at a meeting of the National Executive, delegates representing not less than four branches so request, a decision of that meeting shall be forthwith referred to the Committees of the branches for consideration and should the Committees of not less than five branches request the National Secretary in writing or by telegram within fourteen days of such National Executive meeting that the decision of the National Executive not be implemented, then no action shall be taken on that decision until and unless ratified by the National Council either at a meeting of the National Council or pursuant to Rule 25 of these Rules as if the National Executive had determined that the matter required a decision of the National Council.~~
- ~~(c) The National Council may review any act or decision of the National Executive.~~

## **RENUMBER RULE 28 AS RULE 22 AND AMEND AS FOLLOWS:**

### **28 22 - MEETINGS OF NATIONAL EXECUTIVE**

- (a) A meeting of the National Executive shall be held:
  - (i) when decided by the National Council or National Executive;
  - (ii) when requested in writing by any four members of the National Executive;
  - (iii) upon petition from any ~~branch or~~ Branch Committee; or,
  - (iv) if considered necessary by the National Secretary in conjunction with the National President;
  - (v) But at least ~~three~~ **four** such meetings shall be held each calendar year.
- ~~(b) The Secretary may and whenever directed to do so by the National Council or National Executive shall submit any question to a postal or email vote of the members of the National Executive and shall do so if requested by any Branch Committee. The decision of the majority of the members of the National Executive in such postal vote shall have the like force as a decision made in meeting assembled.~~
- (b) If considered necessary, the National Secretary and the National President may determine that a meeting of the National Executive may be conducted by such telephonic or electronic means as may from time to time be available. Members of National Executive shall participate in such a meeting and the voting power at such a meeting shall be in accordance with sub-rule (d).



- ~~(e) (i) Where it is determined that the matter be submitted to the National Executive for decision by a meeting of members of the National Executive conducted by such telephonic or electronic means as may from time to time be available, the National Secretary shall as soon as is practicable arrange such a meeting.~~
- ~~(ii) The members of the National Executive shall participate in such a meeting and the decision of the majority shall be binding as if such decision were obtained at a regularly constituted meeting of the National Executive.~~
- (c) Out of Session Votes
- (i) The President may determine that an Out of Session Vote of the National Executive be held on any matter with sufficient importance that it needed to be resolved before the next full meeting of the National Executive.
- (ii) An out of session motion may be put to the vote of all members of the National Executive by either postal or electronic means.
- (iii) Once the result of an Out of Session Vote is determined, having provided a reasonable period for a vote to be returned, the President must advise the National Executive of the result indicating the number who vote for, against or abstained and the number who did not vote.
- (iv) If any five members of the National Executive object to the President to a matter being dealt with by way of an Out of Session Vote, the vote must not be taken and the matter must be referred to a meeting of the National Executive called in accordance with sub-rule (a).
- (v) The outcome of an Out of Session Vote must be recorded as such in the minutes of the meeting immediately preceding the Out of Session Vote as if it was a vote of that meeting.
- (d) The voting power of the National Officers and other members of the National Executive shall be as follows:
- (i) the National Officers ~~President, the National Vice President, the National Secretary, the Senior National Assistant Secretary, the National Assistant Secretary and the National Trustees~~ - one vote each; and
- (ii) Each Branch Secretary - one vote for every 1000 financial members or part thereof of the Branch of that Branch Secretary.
- ~~(iii) Notwithstanding paragraph (ii), from 1 February 2008 until the payment of capitation fees by the Victoria No. 1 Branch based on the number of financial members of the Union attached to the Victoria No. 1 Branch as at 30th June 2008, the voting power of the Branch Secretary of the Victoria No. 1 Branch shall be as it was calculated in accordance with paragraph (ii) herein as at 31st January, 2008, plus one vote.~~
- (e) For the purposes of this rule, the financial membership of a Branch shall be the financial membership of that ~~b~~Branch as calculated by reference to its last payment of capitation fees in accordance with ~~R~~rule 79 ~~36(e) and (d)~~.
- (f) Where a Branch has in excess of 5000 financial members, the Committee of Management of that Branch may nominate one member of the Branch for every 5000 financial members or part thereof in excess of the first 5000 members to attend meetings of National Executive as an Executive Advisor. Executive Advisors shall be entitled to attend and observe the proceedings at meetings of National Executive and National Executive may consult with and seek advice from Executive Advisors, and may invite Executive Advisors to speak at any meeting.



- (g) National Executive may allow any other person to observe or speak to its meetings.

**RENUMBER RULE 29 AS RULE 23 AND AMEND AS FOLLOWS:**

**29 23 – ELECTIONS**

A – Branch Elections

Elections shall take place in 2010 and each four years thereafter for all Branch positions in all Branches .

(a) General

The provisions of this rule shall apply to all elections for the following positions in the Union -

- (i) ~~Officers of a~~ Branch Officers;
- (ii) Ordinary members of a Branch Committee;
- (iii) Councillors of the New South Wales Branch Council; and
- (iv) Branch delegates to the National Council.

*This rule does not apply to ballots and elections in Sub-Branches or workplace committees.*

(b) Tenure of Office

- (i) Elections for the positions set out in A(a) shall be conducted every four years by secret postal ballot of all financial members of their respective ~~b~~Branch. Persons declared elected shall hold office for four years or until such time as ~~there~~ their successors have been elected or appointed and taken office.
- (ii) In the event that the taking of an office occurs beyond the time at which the term of office would ordinarily expire, for any reason including any caused by any election inquiry conducted by the Federal Court under the Fair Work (Registered Organisations) Act 2009, the person elected shall take office from the time of declaration of the ballot in which ~~he/she~~ he or she is elected, and shall hold office for a period of four years less the period of the time between the time that the term of office would ordinarily expire and the taking of office, or until a successor has been elected and taken office.
- (iii) The purpose of ~~paragraph sub-rule (ii) of this sub-rule~~ is to ensure that so far as possible elections are synchronised, in a four yearly cycle, with persons elected to office taking office from the time of declaration of the ballot in which ~~he/she~~ he or she is elected and holding office for a period of four years, and, if there are any delays in the electoral process, returning elections to that synchronised cycle.

(c) Returning Officer

- (i) At its first meeting after election the Branch Committee shall appoint a Returning Officer for the conduct of any ballots or plebiscites and, subject to the Fair Work (Registered Organisations) Act 2009, any elections as may be necessary throughout the ensuing year provided that a duly appointed Returning Officer shall hold office until a successor thereto is duly appointed.
- (ii) A Returning Officer so appointed –
  - a. May or may not be a member of the Union;

- b. Shall not be the holder of any office in or an employee of the Union or any ~~b~~Branch of the Union.;~~and-The Union Ombudsman is not eligible to be appointed as the Returning Officer.~~
- (iii) In the event of a duly appointed Returning Officer being unable or unwilling to act as and when required, whether during the conduct of any election or ballot or not, the Branch Committee shall appoint another person to act as Returning Officer for that election or ballot.
- (d) Conduct of Elections

The Returning Officer shall conduct elections and ballots of the ~~u~~Union in the following manner.

- (i) Nominations for positions shall be called for in a national daily newspaper. In addition, nominations for positions in the New South Wales Branch, the Victoria No.1 Branch and the Victoria No.3 Branch shall also be called for on the Union website as well as any other separate website maintained by the relevant ~~b~~Branch.
- (ii) The opening date of nominations shall be the 1st of June with the closing date of the nominations being the 14th of June.
- (iii) Nominations must be in writing signed by the member who is nominated, and endorsed by at least six financial members of the Union. In respect of nominations for positions of Councillors of the New South Wales Branch, the nomination must disclose the nominee's employer, location of employment, sub-branch (if any) and the local health district the nominee is employed in. Local health districts are defined in ~~R~~rule 543(b).
- (iv) Nominations must be forwarded by certified mail or by any other means that ensures delivery to the Returning Officer at the registered office of the Branch.
- (v) In respect of nominations for positions of Branch Officers and ordinary members of the Branch Committee ~~in the New South Wales Branch, the Victoria No.1 Branch and the Victoria No.3 Branch,~~ every nominee may provide with their nomination a candidate statement in Word format containing a brief statement of experience, suitability for office and the objectives and policies intended to be pursued if elected. The candidate statement may also contain brief information as to any group of candidates the nominee is aligned with. The candidate statement shall be limited to a maximum of three hundred (300) words and shall be distributed by the Returning Officer with the ballot papers should the nominee's nomination be compliant and a ballot for the position required. Provided that no candidate statement will be distributed if it is in the absolute opinion of the Returning Officer, offensive ~~and~~ or defamatory.
- (vi) At the closing hour of the nominations, the Returning Officer, in the presence of the Scrutineers (if present), shall proceed to open all nominations.
- (vii) The Returning Officer shall check all nominations received for compliance with the requirements of these rules and shall reject any that do not so comply; provided that in the event ~~that he or she of his/her finding~~ finds ~~of his/her finding~~ a defect in any nomination, ~~he/she~~ the Returning Officer shall before rejecting the nomination notify the person concerned of the defect, and, where it is practicable to do so, give ~~him/her~~ the person the opportunity of remedying the defect where practicable within seven days of ~~his/her having been so~~ being notified.
- (viii) If there be no more nominations than the number to be elected for any position, the Returning Officer shall declare the nominated person/s to be elected to the position/s. The names of the persons so declared elected by the Returning Officer will appear on the ballot paper with the words "declared elected" printed in a box next to his or her name. The person or persons shall take office in accordance with ~~sub-rule~~ sub-rule 239A(b).

- (ix) A candidate who has been nominated in an election may, by notice in writing addressed to the Returning Officer, withdraw the nomination at any time before the close of nominations.
- (x) If there are two or more nominations for any position, the Returning Officer shall advise each of the candidates immediately on receipt of the nominations of the names of the other candidate or candidates.
- (xi) The day on which the roll of voters for the ballot is to be closed shall be on the seventh day prior to the opening of nominations.
- (xii) Candidates shall have the right on request, to scrutinise the membership records of the Branch.
- (xiii) If more than the required number of nominations are received for any position, the Returning Officer shall have ballot papers printed and delivered to him containing the name of the candidates for each position in an order chosen in accordance with ~~paragraph~~ ~~subrule 239A(d)(xiv)~~ herein, indicating the number to be elected to each position, the manner in which votes shall be recorded and the date and the time of closing of the ballot.
- (xiv) The order of candidates' names on ballot papers will, subject to the provisions of this rule dealing with "team nominations", be determined by lot, the drawing of which shall be conducted at a time that will be determined by the Returning Officer. The candidates will be notified of such date and time.
- (xv) The ballot shall open on the 7th of July. The ballot shall close at 5pm on the 7th of August.
- (xvi) The Returning Officer shall, forward by prepaid post to every member entitled to vote a ballot paper which has been initialled by ~~him/her~~ ~~him or her~~ together with an envelope containing the ballot paper marked "Ballot paper – Health Services Union" and a business reply envelope addressed to the Returning Officer, Mail Exchange box number (obtained for the ballot). ~~He/she~~ ~~He or she~~ shall forward by prepaid post a ballot paper and declaration envelope and a prepaid envelope addressed to the Returning Officer for the return of the vote to each member entitled to receive a ballot paper.
- (xvii) Envelopes enclosing ballot papers shall be marked: "if not delivered within seven (7) days please return to P.O. Box No. " (obtained for ballot).
- (xviii) The Returning Officer shall secure a postal box and bag, in ~~his/her~~ ~~his or her~~ name, at the mail exchange to which all ballot papers shall be returned.
- (ix) The Returning Officer, in the presence of a Scrutineer (if present), shall clear the box and bag each day of business and shall sign for receipt of ballot papers from the mail exchange.
- (xx) Immediately after the closing date of the ballot, the box and bag at the Mail Exchange shall be cleared by the Returning Officer, in the presence of the Scrutineers, who shall accompany the Returning Officer to ~~his/her~~ ~~his or her~~ office or place approved by the Returning Officer, to begin the counting.
- (xxi) The Returning Officer shall be responsible for the safe custody of the ballot papers.
- (xxii) On request of a member prior to the closing date of the ballot, ~~his/her~~ ~~his or her~~ returned, undelivered ballot paper shall be readdressed. At the close of the ballot, the Returning Officer shall separate returned, undelivered ballot papers from returned votes, and the undelivered ballot papers shall be retained.

- (xxiii) At the close of the issue of ballot papers, the number issued by the Returning Officer shall be checked with the ballot papers and business reply envelopes obtained from the printers, and the surplus shall be retained.
  - (xxiv) Upon completion of the count of the ballot, the Returning Officer shall immediately inform the Branch President that ~~he/she~~ he or she is ready to announce the result. The Branch President shall convene a special meeting of the Branch Committee of Management or a special General Meeting as soon as practicable at which the Returning Officer shall declare the result of the ballot. The persons so declared elected will take office from the conclusion of the meeting in accordance with ~~sub-rule~~ sub-rule 239 Part A (b).
  - (xxv) In the event of a tie occurring in any ballot ~~in the New South Wales Branch, the Victoria No.1 Branch and the Victoria No.3 Branch~~, the result shall be determined by the Returning Officer drawing lots provided that if one of the tied candidates is a retiring office holder from the position subject of the ballot ~~he/she~~ he or she shall be declared elected.
  - (xxvi) The Returning Officer will then notify all successful candidates by letter of their election.
  - (xxvii) This rule does not apply to ballots and elections in Sub-Branchees or workplace committees.
- (e) Qualification for Office
- (i) Nominations for any position of ~~full-time~~ paid Branch Officer shall have been a continuously financial member of the Union for not less than twelve months immediately preceding ~~his/her~~ his or her nomination and shall be a financial member of the Union at the date of ~~his/her~~ his or her nomination.
  - (ii) Nominations for any position other than that of ~~full-time~~ paid Branch Officer shall have been a continuously financial member of the Union for not less than three months immediately preceding ~~his/her~~ his or her nomination and shall be a financial member of the Union at the date of ~~his/her~~ his or her nomination.
  - (iii) No member may nominate for more than one position at each election of Branch Officers and ordinary members of the Branch Committee of Management. In addition, in the case of the New South Wales Branch, no member may nominate for the positions of Branch Officer and Councillor of the Branch Council at any election. For the avoidance of doubt, any member of the New South Wales Branch may nominate for the position of Councillor of the Branch Council and ordinary member of the Branch Committee at any election.
  - (iv) In addition to the foregoing, no member may nominate for any position at ~~each any Branch election in the New South Wales Branch, the Victoria No. 1 Branch and the Victoria No. 3 Branch~~ unless the member is attached to the relevant Branch.

(f) Team Nominations

~~This sub rule shall not apply to any election conducted in the New South Wales Branch, the Victoria No.1 Branch and the Victoria No.3 Branch.~~

Notwithstanding sub rule (d) of this rule, candidates in an election of:

- (i) Officers of a ~~b~~Branch;
- (ii) Ordinary members of a Branch Committee;
- (iii) In the case of the NSW Branch, Branch Council;
- ~~(iii)~~(iv) Branch delegates to the National Council;

may, subject to the following conditions, nominate as members of a “team nomination”:-

- a. Each candidate being nominated as a member of a team nomination must signify ~~his/her~~ his or her acceptance of such nomination by signing the nomination to the Returning Officer.
- b. No member of a team nomination may nominate or be nominated as a member of another “team nomination” or as an individual candidate.
- c. A “Team” nomination must nominate a candidate (or the required number of candidates) for each position for which nominations have been called whereupon each candidate will be considered to have nominated for each position concerned.
- d. The Returning Officer will ensure that the names of members of a team nomination are printed on the ballot paper in a manner which clearly identifies that the candidate is standing for election in the nominated position as part of a team. The names of members of a team nomination will appear on the ballot paper as a group. If there is more than one team nomination the order of team nomination appearing on the ballot paper will be determined by lot at the same time and place as the determination by the Returning Officer of the order on the ballot paper of individual candidates. The Returning Officer will at the same time also determine by lot whether the team nominations appear before or after the names of individual candidates on the ballot paper.
- e. Where a person who has nominated as part of a team nomination is declared elected to a position by the Returning Officer pursuant to sub-rule (de) of this rule, that person’s name together with the words “declared elected” shall appear on the ballot paper together with the other members of the team nomination.
- f. The Returning Officer shall ensure that the ballot paper makes provision for the recording of a vote for each member of a team nomination by way of marking one box at the top of the list of names of members of that team (a “team box”). The Returning Officer shall also ensure that the ballot paper contains clear instructions to the effect that a member voting may vote individually for candidates, including members of a team nomination, or, alternatively, vote for each member of a team by marking the team box.
- g. ~~The withdrawal from the ballot of a member of a team nomination after the close of nominations does not invalidate that team nomination. A vote for a team nomination shall count as a vote for each of that team remaining in the ballot.~~ Once a candidate has nominated for a team nomination he/she he or she cannot withdraw unless with the consent of all the members of that team. Where there is consent for a candidate to withdraw, the team nomination form may be amended to provide for a replacement nominee

(g) Scrutineers

- (i) Each candidate shall have the right to appoint a Scrutineer, who shall be entitled to be present at all stages of the ballot, without cost to the Union. The candidate appointing the scrutineer shall, before the closing of nominations, notify the Returning Officer in writing of the name of such scrutineer.
- (ii) Scrutineers may be present during the whole conduct of the ballot and at every operation from receipt of nominations to final count of the ballot.
- (iii) Scrutineers shall be entitled to be present throughout the ballot and may query the inclusion or exclusion of any vote in the count, but the Returning Officer shall have final determination of any vote so queried.

- (iv) Scrutineers shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election.
  - (v) Scrutineers shall not interfere with or attempt to influence any member at the time such member is casting his or her vote.
- (h) Extraordinary Vacancies of the Branch
- (i) Where an extraordinary or casual vacancy (howsoever occurring) in the office of any Officer of a ~~b~~Branch, ordinary member of a Branch Committee of Management, ~~b~~Branch delegate to the National Council or Councillor of the New South Wales Branch Council, the Branch Committee shall take immediate action to have such vacancy filled by secret postal ballot of all financial members of the ~~b~~Branch provided that:
    - a. where the unexpired portion of the term of office in which the vacancy occurs does not exceed three years, the Branch Committee may fill such vacancy by appointment of an eligible member of the Union; and,
    - b. where the unexpired portion of the term of office in which the vacancy occurs exceeds three years the Branch Committee of Management may fill such vacancy by appointment of an eligible member of the Union until an election is held, provided that no person so appointed shall hold office for a period exceeding six months.
  - (ii) Such ballot shall be conducted by the Returning Officer appointed pursuant to this rule and the Returning Officer so appointed shall determine the dates for the closing of nominations and the closing of the ballot and shall report the result of the ballot to the next following meeting of the Branch Committee.
  - (iii) Any person so elected shall take office from the date of the declaration of ~~his/her~~ his or her election and shall hold office until the expiration of the term of office of the person ~~he/she~~ he or she replaces.
- (i) System of Voting
- (i) The system of voting in any election conducted pursuant to this ~~R~~rule shall be the first-past-the-post system.
  - (ii) A voter shall record ~~his/her~~ his or her vote or votes (as the case may be) by placing a single 'X' or a tick opposite the name or names of all candidates for whom ~~he/she~~ he or she desires to record a vote provided that ~~he/she~~ he or she shall not record a vote for more candidates than are required to fill any particular position or office.
  - (iii) A ballot paper shall be rejected if it is not marked in a manner prescribed or allowed by this ~~R~~rule; but except as otherwise provided by these ~~R~~rules a ballot paper shall not be rejected for any reason other than the reason set out in this ~~R~~rule but effect shall be given according to the voter's intention so far as ~~his/her~~ his or her intention is clear.

## B – National Officer Elections

- (a) Tenure of Office
- (i) Subject to ~~paragraph sub-rule (ii) of this sub-rule~~, the National Officers ~~of the Union~~ shall be elected at the annual meeting of the National Council (the said meeting) by secret ballot of the members of National Council being the National Officers ~~of the Union~~ and the delegates to National Council, and shall take office from the completion of the annual meeting of National Council in the year of their election and shall hold office for a period of four years or until successors thereto have been elected and taken office.



- (ii) In the event that there is any delay in an election for an office or the taking of office occurs beyond the time of the relevant annual meeting of National Council for any reason including any delay caused by any election inquiry, the person elected shall take office from the time of declaration of the ballot in which ~~he/she~~ he or she is elected, and shall hold office for a period of four years less the period of the time of that delay, or until a successor has been elected and taken office.

(b) Qualifications for Office

Any nominee for the position of ~~an~~ National Officer ~~of the Union~~ shall:

- (i) Be a member of the National Council at the time of ~~his/her~~ his or her nomination (~~not including any person holding such an office merely because of having filled a casual vacancy in the office within the last 12 months, or the last quarter of the term of the office~~);
- (ii) Be a financial member of the Union at the time of the nomination;
- (iii) Have been a financial member of the Union for the period of 12 months immediately preceding ~~his/her~~ his or her nomination;
- (iv) Be nominated by a member of the National Council (who shall be a financial member of the Union); and
- (v) Not be nominated for more than one position.

(c) Returning Officer

- (i) At its first meeting after election the National Council shall appoint a Returning Officer for the conduct of any elections, ballots or plebiscites as may be necessary throughout the ensuing year provided that a duly appointed Returning Officer shall hold office until a successor thereto is duly appointed. The election shall be conducted in accordance with these rules.
- (ii) A Returning Officer so appointed –
  - ~~(a)~~ a. May or may not be a member of the Union;
  - ~~(b)~~ b. Shall not be the holder of any office in or an employee of the ~~u~~Union or any ~~b~~Branch of the Union; and
  - c. The Union Ombudsman is not eligible to be appointed as the Returning Officer.
- (iii) In the event of a duly appointed Returning Officer being unable or unwilling to act as and when required, whether during the conduct of any election or ballot or not, the National Executive shall appoint another person to act as Returning Officer for that election or ballot.

(d) The Returning Officer shall conduct ~~elections and ballots of the Union~~ National Officer elections in the following manner:

- (i) The opening date of nominations shall be the 15th day of August , the closing date of nominations shall be the 31st day of August.
- (ii) At the closing hour of the nominations, the Returning Officer, in the presence of the Scrutineers (if present), shall proceed to open all nominations.
- (iii) The Returning Officer shall check all nominations received for compliance with the requirements of these rules and shall reject any that do not so comply; provided that in the event ~~of his/her finding that he or she finds~~ a defect in any nomination, ~~he/she~~ he or she shall before rejecting the nomination notify the person concerned of the defect, and, where it

is practicable to do so, give ~~him/her~~ him or her the opportunity of remedying the defect where practicable within seven days of ~~his/her having been so~~ being notified.

- (iv) A candidate who has been nominated in an election may, by notice in writing addressed to the Returning Officer, withdraw the nomination at any time before the close of nominations.
  - (v) Prior to the opening date of nominations the Returning Officer shall call for nominations by notice in writing to each member of the National Council at their home address.
  - (vi) Nominations shall be in writing and signed by the nominee and nominator and shall be delivered to the Returning Officer at the registered office of the Union prior to the close of nominations.
  - (vii) If there be no more nominations than there are vacancies for a position, ~~he/she~~ he or she shall declare the nominated person or persons elected to the position.
  - (viii) If more nominations are received than there are vacancies for a position ~~he/she~~ he or she shall have ballot papers printed and delivered to ~~him/her~~ him or her containing the names of the candidates for each position in an order chosen by ballot indicating the number to be elected to each position, and the manner in which votes shall be recorded.
  - (ix) ~~He/she~~ He or she shall be responsible for the safe custody of the ballot papers.
  - (x) ~~He/she~~ He or she shall obtain from the printer a certificate of the number of ballot papers printed.
  - (xi) ~~He/she~~ He or she shall initial every ballot paper prior to its distribution.
  - (xii) ~~He/she~~ He or she shall attend the said meeting on the first day of the said meeting to conduct the ballot.
  - (xiii) ~~He/she~~ He or she shall distribute a ballot paper to each Officer and delegate to National Council entitled to receive a ballot paper.
  - (xiv) ~~He/she~~ He or she shall arrange for the use of a ballot box or other receptacle to which ballot papers may be returned to ~~him/her~~ him or her and after the closing of the ballot ~~he/she~~ he or she shall collect the ballot papers from such box or receptacle.
  - (xv) Upon collecting the same ~~he/she~~ he or she shall, in the presence of the scrutineers (if so requested) count all the votes cast and subject to ~~sub-rule paragraph (xvii) of this clause~~ declare the result of the ballot.
  - (xvi) In the event of a tie occurring the result shall be determined by the Returning Officer drawing lots provided that if one of the tied candidates is a retiring office holder from the position subject of the ballot ~~he/she~~ he or she shall be declared elected.
  - (xvii) The Returning Officer shall report the result of the election to the said meeting and shall submit to the said meeting a full report of the ballot indicating the number of ballot papers printed, the number distributed, the number on hand and any other relevant matters.
- (e) Absentee Voting

Where a member of the National Council is unable to attend the said meeting or that part of it at which the ballot is conducted that member may so advise the Returning Officer in writing requesting that the member be provided with a ballot paper prior to the ballot at the said meeting. Upon receipt of that request the Returning Officer shall provide the member concerned with a ballot paper and a prepaid envelope or business replied paid envelope addressed to the Returning Officer together with a further blank envelope with instructions to the member that the ballot paper when completed



should be inserted in the blank envelope which should then be sealed and further inserted in the prepaid or replied paid envelope and either given to the Returning Officer or posted to the Returning Officer in sufficient time for it to be able to be opened at that part of the said meeting where the ballot is conducted. The Returning Officer upon receiving any such vote is required to ensure its safe custody and that it not be opened before the collection and subsequent counting of votes cast at the said meeting as required by ~~sub-rule (d) clause (e) of this Rule~~. The Returning Officer shall be responsible to ensure the secrecy of the vote cast by the absent member and for the purpose of doing so shall open each of the envelopes in the presence of any scrutineers and without examining or revealing the contents of the ballot paper contained in those envelopes, include that ballot paper together with other ballot papers contained in the ballot box referred to in ~~sub-rule (d) clause (e) of this Rule~~ in such a way as to prevent anyone being able to identify in which way the absent member has voted.

A member of National Council may not authorise any person to exercise a member's vote at or before such meeting.

(f) Scrutineers

Any candidate may if ~~he/she~~ ~~he or she~~ so desires appoint a scrutineer who is a financial member of the Union to represent ~~him/her~~ ~~him or her~~ at the ballot. The candidate appointing the scrutineer shall, before the closing of nominations, notify the Returning Officer in writing of the name of such scrutineer, who -

- (i) Shall be entitled to be present throughout the ballot and may query the inclusion or exclusion of any vote in the count, but the Returning Officer, shall have final determination of any votes so queried.
- (ii) Shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election.
- (iii) Shall not interfere with or attempt to influence any member at the time such member is casting ~~his/her~~ ~~his or her~~ vote.

(g) Extraordinary Vacancies

- (i) Where an extraordinary or casual vacancy (howsoever occurring) occurs in the office of any ~~National Officer of the Union~~, the National Executive shall take immediate action to have such vacancy filled by secret postal ballot of the members of the National Council who are financial members of the Union provided that -
  - (a) Where the unexpired portion of the term of office in which the vacancy occurs does not exceed three years, the National Council may fill such vacancy by appointment of a member of the Union who is eligible for that office; and,
  - (b) Where the unexpired portion of the term of office in which the vacancy occurs exceeds three years the National Council may fill such vacancy by appointment of a member of the Union who is eligible for that office until an election is held provided that no persons so appointed shall hold office for a period exceeding six months.
- (ii) The secret postal ballot shall be conducted by a Returning Officer appointed for such purpose by the National Executive and the Returning Officer so appointed shall determine the date for the closing of nominations and the date for the closing of the ballot and shall report the result of the ballot to the next following meeting of the National Council and/or the National Executive, whichever is sooner.
- (iii) The Returning Officer shall forward by pre-paid post a ballot paper and a prepaid or business reply paid envelope addressed to the Returning Officer for the return of the ballot paper to each Officer and delegate to National Council entitled to receive a ballot paper.

- (iv) ~~He/she~~ He or she shall arrange for the use of a post office box or other receptacle to which ballot papers may be returned to ~~him/her~~ him or her and after the closing of the ballot ~~he/she~~ he or she shall collect the ballot papers from such box or receptacle.
  - (v) Any person so elected shall take office from the date of the declaration of ~~his/her~~ his or her election and shall hold office until the expiration of the term of the person ~~he/she~~ he or she replaces.
  - (vi) In all other respects the ballot shall be conducted in accordance with the foregoing provisions of this ~~R~~rule.
- (h) System of Voting
- (i) The system of voting in any election conducted pursuant to this ~~R~~rule shall be the first-past-the-post system.
  - (ii) A voter shall record ~~his/her~~ his or her vote or votes (as the case may be) by placing a single 'X' or a tick opposite the name or names of all candidates for whom ~~he/she~~ he or she desires to record a vote provided that ~~he/she~~ he or she shall not record a vote for more candidates than are required to fill any particular position or office.
  - (iii) A ballot paper shall be rejected if it is not marked in a manner prescribed or allowed by this ~~R~~rule; but except as otherwise provided by these ~~R~~rules a ballot paper shall not be rejected for any reason other than the reason set out in this ~~R~~rule but effect shall be given according to the voter's intention so far as ~~his/her~~ his or her intention is clear.

**RENUMBER RULE 30 AS RULE 24 AND AMEND AS FOLLOWS:**

**30 24 - NATIONAL PRESIDENT**

- (a) The National President shall attend all meetings of the National Council and National Executive and any meeting in the Union held by decision of the National Council and National Executive and preside at these meetings, and may, if ~~he/she~~ he or she desires, preside over any other meeting of the Union ~~or a Branch thereof~~ at which ~~he/she~~ he or she is present. ~~He/she~~ He or she shall preserve order so that the business may be conducted in due form and with propriety.; ~~and,~~
- (b) The National President shall, within 14 days of any minutes being confirmed, sign the minutes and the original will be kept in the minute folder.
- (c) ~~He/she~~ He or she shall be impartial in all transactions and shall see that these ~~R~~rules are rigidly adhered to.

**RENUMBER RULE 31 AS RULE 25 AND AMEND AS FOLLOWS:**

**31 25 - NATIONAL VICE-PRESIDENTS**

- (a) The National Vice-Presidents shall at all times assist the National President in the execution of ~~his/her~~ his or her duties and when requested by the National President shall carry out such functions of the National President in ~~his/her~~ his or her absence as the National President authorises in writing.
- (b) In the absence of the National President, the ~~most senior~~ National Vice-President; ~~present~~ shall preside over a meeting of the National Council or the National Executive or any meeting held by decision of the National Council or National Executive and when so doing shall exercise all the powers and functions of the National President.

- (c) In the event of the National President and both Vice-Presidents being absent from a meeting of the National Council or the National Executive or any meeting held by decision of the National Council or National Executive, the members present shall appoint a Chairman to preside over such meeting.

**RENUMBER RULE 32 AS RULE 26 AND AMEND AS FOLLOWS:**

**32 26 - NATIONAL SECRETARY**

The National Secretary shall -

- (a) Be the registered officer of the Union to sue and be sued on its behalf;
- (b) Summon by notice in writing to each member thereof and attend, unless excused, all meetings of the National Council and National Executive and keep or cause to be kept correct minutes of the same;
- ~~(c) Have the right to speak at any general or special meeting of any branch or Branch Committee, but not to vote unless he/she is a member of such branch or Branch Committee;~~
- (d) Answer and file all correspondence;
- (e) Keep and maintain, or cause to be kept and maintained, the records required by any statute to be kept and maintained by the Union in any form stipulated by any statute ~~by an organisation pursuant to the provisions of the Workplace Relations Act 1996 or as amended from time to time;~~
- (f) ~~Lodge, and~~ file with and furnish ~~to the Industrial Registrar~~ all such documents as are required to be lodged, filed or furnished by the Union under any statute ~~the said Act~~ at the prescribed times and in the prescribed manner;
- (g) ~~Receive~~ all monies on behalf of the Union and pay the same within seven days of receipt into the Union Bank account to the credit of the Union and enter into a book kept for that purpose particulars of all amounts received and paid to such bank;
- (h) Draw up a report and balance sheet to be submitted to the National Council at its annual Meeting and forward a copy of the same to each ~~Branch~~;
- (i) ~~Submit his/her~~ his or her books, accounts and receipts annually or as often as may be required by the National Council or National Executive to the auditors and to give them such assistance as they may require in the audit;
- (j) ~~Be~~ responsible for the books, records, property and moneys of the Union and, within 48 hours of receiving a request from the National Council to do so, deliver to the National Council such books, records, property and moneys;
- (k) Take all reasonable steps to increase the membership of the Union and foster a ~~Branch~~ of the Union in each State or Territory where members are employed;
- (l) Supply ~~Branches~~ with information as to the proceedings of the National Council, National Executive and ~~Branches~~;
- (m) ~~Confer~~ with Branch Secretaries as often as is necessary in the interests of the Union and assist as best ~~he/she~~ he or she is able all Branch Secretaries and Committees;
- (n) Between meetings of the National Executive, control and conduct the business of the Union, but shall not have the powers specified in rule ~~1621~~(e);

- (o) Between meetings of the National Council and National Executive, have power to call any meeting in the Union which the National Council has power to call;
- (p) Be ex-officio a member of all Committees of the National Council;
- (q) Be indemnified from the funds of the Union;
- (r) Provide the Returning Officer with such assistance as is necessary to enable ~~him/her~~ him or her to conduct any election;
- (s) Have the power to submit any industrial dispute in which members of the Union are involved to Conciliation and Arbitration; ~~and,~~
- ~~(t) Carry out such other duties as the National Council or National Executive may from time to time assign to him/her.~~
- (t) Be subject to the direction and control of the National Executive and National Council in the performance of his or her duties and exercise of his or her powers;
- (u) Carry out such other duties, and comply with such directions, as the National Executive or National Council may from time to time assign or give to him or her;
- (v) Provide such reports to National Executive or National Council as required by those bodies concerning the performance of his or her duties, exercise of his or her powers or any other matter concerning the business and affairs of the Union;
- (w) Shall perform such other duties and functions as are conferred by these rules on the National Secretary;
- (x) For the avoidance of doubt, where National Executive has adopted a policy or procedure then:
  - (i) the National Secretary has the obligation to comply with that policy or procedure, notwithstanding the powers conferred, and the duties imposed, by this rule; and
  - (ii) to the extent of any inconsistency between the terms of this rule and the obligations created by that policy or procedure, the terms of the policy or procedure prevail and are to be treated as a direction of the National Executive.

**RENUMBER RULE 33 AS RULE 27 AND AMEND AS FOLLOWS:**

**33 27 - NATIONAL ASSISTANT ~~SECRETARIES~~ SECRETARY**

- (a) The ~~Senior~~ National Assistant Secretary shall
  - (i) assist the National Secretary at all times in the execution of ~~his/her~~ his or her duties; and,
  - (ii) be subject to the direction of the National Secretary and act in ~~his/her~~ his or her stead whenever appointed to do so by the National Executive.
- ~~(b) The National Assistant Secretary shall:~~
  - ~~(i) assist the National Secretary and the Senior Assistant National Secretary at all times in the execution of their duties; and~~

- (ii) ~~be subject to the direction of the National Secretary, and the Senior Assistant National secretary when the Senior Assistant National Secretary is acting in the stead of the National Secretary.~~

## **DELETE RULE 34 –TRUSTEES**

### **~~34 – TRUSTEES~~**

~~The Trustees shall invest the funds of the Union and otherwise deal with the property and funds of the Union as they may from time to time be directed by the National Council or National Executive.~~

## **DELETE RULE 35 –NATIONAL AUDITOR**

### **~~35 – NATIONAL AUDITOR~~**

~~The National Auditor shall –~~

- (a) ~~be appointed annually by a the National Council or the National Executive;~~
- (b) ~~be a competent person within the meaning of the Fair Work (Registered Organisations) Act 2009 and the Fair Work (Registered Organisations) Regulations;~~
- (c) ~~perform such functions and duties as are prescribed by the Fair Work (Registered Organisations) Act 2009 and the Fair Work (Registered Organisations) Regulations and such other functions and duties not inconsistent with the Fair Work (Registered Organisations) Act 2009 and the Fair Work (Registered Organisations) Regulations as are required by the National Council or the National Executive;~~
- (d) ~~have access to and examine if desired all books, papers, deeds, documents and accounts of the National Council, the National Executive and each branch and be empowered to question any office bearer or officer or employee of the Union or any branch thereof with regard to the same and to obtain from any bank or other institution at which the funds of the Union or any branch thereof are deposited or invested such information as he/she may require; and,~~
- (e) ~~have power to place before the National Executive any suggestion he/she may desire to make concerning the financial affairs of the Union or its branches and before the Committee of a branch any suggestion he/she may desire to make concerning the financial affairs of that branch.~~

## **DELETE RULE 35A – FINANCIAL REPORTING REQUIREMENTS**

### **~~35A – FINANCIAL REPORTING REQUIREMENTS~~**

- (a) ~~The National Secretary shall within five (5) months of the end of the financial year provide free of charge to all members of the Union a copy of the full report for the financial year. The full report may be provided to members by publication in the Union's Journals, by correspondence or email, by posting on the Union's website or by some other method where all Union members have access to and are able to view the full report.~~
- (b) ~~Notwithstanding sub rule (a) and in addition to Rule 27 the National Executive shall have the power to resolve that a concise report is to be provided to all members of the Union in lieu of a full report.~~

- ~~(c) — The National Secretary shall on the requisition in writing and signed by 5% or more of the Union's members, call a general meeting of members by way of a series of general meetings of members at different locations in each of the States and the Australian Capital Territory for the purpose of considering the auditor's report, the general purpose financial report and the operating report.~~
- ~~(d) — The requisition must be made within six (6) months of the end of the financial year and state that the purpose of the general meeting is to consider the auditor's report, the general purpose financial report and the operating report of the Union for the financial year.~~
- ~~(e) — Upon receiving a valid requisition, the National Secretary must direct Branch Secretaries to give all members of the Branch not less than fourteen (14) days notice of the date, time, place and reason for calling of the series of general meetings of the members.~~
- ~~(f) — The notice referred to in sub-rule (e) may be given by Branch Secretaries to the Members of the Branch by correspondence, email or by publishing a notice in the Branch's Journals or by notification on the Branch's website.~~
- ~~(g) — For the convenience of facilitating member attendance, video conferencing may be used for the series of general meetings.~~
- ~~(h) — At the series of general meetings, the Branch President or the Branch Vice President shall preside. All members of the Branch shall be entitled to attend and vote.~~
- ~~(i) — Not less than 5% of the membership of the Union shall form a quorum which shall be calculated by reference to the total number of members attending the series of general meetings. The question of adoption or otherwise of each of the auditor's report, the general purpose financial report and the operating report shall be decided by the majority of those members present at the series of general meetings. In the event of an even vote, the National President shall have the casting vote. The general meeting is taken to have occurred at the time of the last of the meetings in the series.~~

## **DELETE RULE 36 – NATIONAL FUNDS AND PROPERTY**

### **~~36 – NATIONAL FUNDS AND PROPERTY~~**

- ~~(a) — The funds and property of the Union shall consist of—~~
  - ~~(i) — any real or personal property of which the National Council or National Executive of the Union, by these Rules or by any established practice not inconsistent with these Rules, has, or, in the absence of any limited term lease-bailment or arrangement, would have, the right of custody, control or management;~~
  - ~~(ii) — the amounts of the branch contributions payable to the National Council pursuant to this rule;~~
  - ~~(iii) — any interest, rents, dividends, or other income derived from the investment or use of such funds and property;~~
  - ~~(iv) — any superannuation or long service leave or other fund operated or controlled by the Union as a whole in accordance with these rules for the benefit of its officers or employees;~~
  - ~~(v) — any sick pay fund, accident pay fund, funeral fund or like fund operated by the Union as a whole in accordance with these rules for the benefit of its members;~~

- ~~(vi) any property acquired wholly or mainly by expenditure of the moneys of such funds and property or derived from other assets of such funds and property; and,~~
- ~~(vii) the proceeds of any disposal of parts of such funds and property.~~
- ~~(b) The funds and property of the Union shall be controlled by the National Council and the National Executive both of which shall have power to expend the funds of the Union for the purposes of carrying out the objects of the Union and all cheques drawn on the funds of the Union shall be signed by two officers of the Union and at least one Trustee. For the expenditure of the funds of the Union on the general administration of the Union and for purposes reasonably incidental to the general administration of the Union, the prior authority of the National Council or the National Executive shall not be necessary before cheques are signed or accounts paid.~~
- ~~(c) Each Branch shall pay annually to the National Council capitation fees (which includes the Branches proportion of the National unions affiliation fee to the ACTU) being such amount per financial member as decided from time to time by two thirds vote of National Council. Such capitation fees shall apply equally to branches.~~
- ~~(d) Each Branch's capitation fees shall be calculated and payable on the basis of the number of financial members of the Union attached to that Branch as at the 30th June in the appropriate year certified as correct by the Branch Secretary and shall be paid in the case of capitation fees, by the 31st August next following, or, if a branch chooses to pay capitation fees on a quarterly basis, by 14 July, 14 October, 14 January and 14 April next following, or if the Branch chooses to pay monthly by the 14<sup>th</sup> of each month.~~
- ~~(e) Any Branch which has failed to pay its capitation fees in accordance with this Rule shall not, unless the National Council otherwise decides, be entitled to any representation at any meeting thereof until such payment is made in full. Where any Branch has so failed to pay, its Branch Secretary shall not, unless the National Executive otherwise decides, be entitled to participate in any meeting of the National Executive until such payment is made in full.~~
- ~~(f) The financial year of the Union and the Branches shall end on the 30th June in each year.~~
- ~~(g) Subject always to paragraph (h) in this rule, but notwithstanding anything elsewhere contained in these rules, the Union shall not make any loan, grant or donation of any amount exceeding \$1,000 unless the National Council or the National Executive of the Union~~
- ~~(i) has satisfied itself~~
- ~~(a) that the making of the loan, grant or donation would be in accordance with the other rules of the Union, and,~~
- ~~(b) in relation to a loan, that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory and,~~
- ~~(ii) has approved the making of the loan, grant or donation.~~
- ~~(h) The provisions of paragraph (g) of this rule shall not apply to or in relation to payments made by the Union by way of provision for, or reimbursement of, out of pocket expenses incurred by persons for the benefit of the Union.~~
- ~~(i) This clause shall apply where the Union through its National Council is liable to pay payroll tax or similar types of tax in respect to employees employed in any Branch of the Union. In such circumstances the following actions are required to be taken:~~
- ~~(i) By the 30th of June in each year the relevant Branch Secretary shall advise or as provided in paragraph (ii) commence to advise the National Secretary in writing of a calculated estimate of the salaries, wages, allowances, fringe benefits, superannuation contributions~~



~~and any other payments to or for employees (including paid officers) in the Branch for which any such tax will be liable to be paid in the following 12 months:~~

- ~~(ii) The calculated estimate referred to in paragraph (i) may be provided annually, quarterly or monthly in advance, specifying the calculated estimate for the relevant year, quarter or month.~~
- ~~(iii) Prior to the 15th of July in each year the relevant Branch Secretary shall forward to the National Secretary a detailed statement ("the reconciliation statement") stating the total amounts of any payments made to employees (including paid officers) in the Branch in the financial year preceding the 1st of July in that year and for which any such tax is liable to be paid or is on that date considered to be liable to be paid. That reconciliation statement shall specify separately the total amount of gross salaries and wages, allowances, fringe benefits, employer superannuation contributions and any other payments made to or for such employees for which such tax is assessable.~~
- ~~(iv) Prior to the 15th of July in each year the relevant Branch Secretary shall also forward to the National Secretary a statement from the Branch Auditor reporting on the accuracy of the reconciliation statement referred to in paragraph (iii);~~
- ~~(v) Prior to the 15th of July in each year the relevant Branch Secretary shall forward to the National Secretary in respect to all employees (including paid officers) in the Branch in the financial year preceding 1 July in that year a copy of all annual group tax and WorkCover reconciliations, the most recent fringe benefits tax annual assessment and a copy of the annual report from any Superannuation Fund to which superannuation contributions are made.~~
- ~~(vi) Any Branch Secretary who at any time fails to comply with any part of the provisions of clauses (i) to (v) inclusive above shall within two days of such failure advise the National Secretary in writing of that fact, the reason for non compliance and of the date by which he/she expects there will be compliance with the provisions. If such non compliance continues that Branch Secretary shall each subsequent week thereafter advise the National Secretary in writing of the reasons for non compliance at that stage and the date by which compliance is then expected.~~
- ~~(vii) Where there is an estimated tax liability in relation to the payments to which this clause refers the relevant Branch shall pay to the National Council the full amount of that estimate at the same time as it forwards the calculated estimate referred to in paragraphs (i) and (ii). If that payment is not made or the liability is underestimated by the Branch Secretary the Branch shall pay to the National Council the payment that was due or the amount of the underestimation and also any penalty imposed on the Union because of the failure to make that payment to the National Council or because of the underestimation.~~
- ~~(viii) Where a Branch fails to provide the reconciliation statement or any part of it by the date required by this clause and any penalties are imposed on the Union as a consequence of that failure the Branch shall pay an amount equal to the penalty to the National Council.~~
- ~~(ix) Any Branch which fails to pay to the National Council in advance the annual, quarterly or monthly tax payment to which this clause applies, or fails to pay any penalty which this clause requires it to pay within five days of being called upon in writing by the National Secretary to pay the relevant tax payment and/or the penalty shall not unless the National Council decides otherwise, be entitled to representation at any meeting of National Council or National Executive.~~



**DELETE RULE 37 – REMOVAL OF OFFICERS ETC. AND REPLACE WITH NEW CLAUSE 28 – MISCONDUCT OF NATIONAL OFFICERS AS FOLLOWS:**

**~~37 – REMOVAL OF OFFICERS ETC.~~**

- ~~(a) — An Officer of the Union or a member of National Council or National Executive may be removed from his/her office if the National Council or National Executive by majority resolution of members voting finds him/her guilty, in accordance with these Rules, of misappropriation of the funds of the Union or any Branch thereof, a substantial breach of the Rules of the Union, gross misbehaviour or gross neglect of duty or finds that he/she has ceased, according to these Rules, to be eligible to hold his/her office. Any charge shall be in writing and shall be forwarded to the National President or the National Secretary, who shall notify the person charged of the details of the charge.~~
- ~~(b) — Such person may be charged by any member under this Rule and such a matter should be in the first instance be dealt with by the Union's Ombudsman under rule 17. Until the Ombudsman has completed their investigation charges shall not be laid. Once the Ombudsman's findings have been presented the person/s laying the charge have seven days to consider whether they wish to proceed with the matter.~~
- ~~(c) — The person charged shall be given not less than fourteen days' notice in writing of the time and place of the meeting at which the charge is to be heard and determined and shall be entitled to attend such meeting and to be heard but not to vote thereat.~~
- ~~(d) — A member so removed by the National Executive shall have the right to appeal to the National Council provided that he/she gives to the National Secretary notice of his/her intention to appeal within seven days of his/her being notified in writing of his/her removal, but the giving of such notice shall not operate to stay the decision of the National Executive.~~
- ~~(e) — Notwithstanding the foregoing, either the National President or the National Secretary may, in their discretion, suspend from office a person charged under this rule pending determination of the charge but in no event shall a person remain suspended for a period exceeding twenty eight days.~~
- ~~(f) — A person shall be ineligible to hold office as an officer of the Union or member of the National Council or National Executive if—~~
  - ~~— (i) — he/she becomes of unsound mind; or,~~
  - ~~— (ii) — he/she ceases to be a financial member of the Union.~~

**28 - MISCONDUCT OF NATIONAL OFFICERS**

- (a) A National Officer may be charged by any member with:
  - (i) misappropriation of the funds of the Union;
  - (ii) substantial breach of the Union's Rules;
  - (iii) gross misbehaviour in relation to his or her office; or
  - (iv) gross neglect of duty in the conduct of his or her office.
- (b) A National Officer is charged when he or she is given notice of the charge and a copy of that charge has been given to the National President.
- (c) National Executive may, in its discretion, suspend the person charged from office pending determination of the charge by the National Executive.

- (d) The National Executive shall meet to hear the charge. The charge will be heard at the National Executive meeting immediately following the date that a copy of the charge has been given to the National President, provided that:
- (i) The National Officer charged must be given at least 21 days' notice in writing of the place and date of the National Executive meeting at which the charge is to be heard;
  - (ii) The National Officer charged must be given particulars in writing of the charge at least 21 days before the date of the National Executive meeting at which the charge is to be heard;
  - (iii) Where the National Officer has not been given the notice and particulars required by these rules, the National Executive shall determine when the charge will be heard consistent with the obligations to provide those particulars and that 21 days' notice.
- (e) At the meeting to hear the charge, the National Executive:
- (i) Shall give the member bringing the charge the opportunity to be heard and may, in its discretion, give that member the opportunity to be heard through another person or in writing or both. It need not give the member bringing the charge an opportunity to be heard in person so long as the opportunity to be heard is given by permitting the member bringing the charge the opportunity to provide written submissions;
  - (ii) Shall give the National Officer charged the opportunity to be heard personally at that meeting, but may determine the charge in the absence of the officer notified of the meeting;
  - (iii) May, in its discretion, give the National Officer charged the opportunity to be heard through another person or in writing or both. It need not give the National Officer charged an opportunity to be heard in person so long as the opportunity to be heard is given by permitting the National Officer charged the opportunity to provide written submissions;
  - (iv) Shall, if it is satisfied on the balance of probabilities, that the charge is established, find the National Officer guilty of the charge, but shall otherwise dismiss the charge;
  - (v) Shall direct the National President to immediately notify the National Officer of the decision of the National Executive in writing giving reasons for the decision.
- (f) If the National Executive has found the National Officer guilty of a charge, the National Executive at that meeting (or such other meeting as the National Executive determines):
- (i) Shall give the National Officer the opportunity to be heard as to the penalty that shall be imposed on the National Officer, but may determine the charge in the absence of a National Officer notified of the meeting;
  - (ii) May, in its discretion, give the National Officer the opportunity to be heard through another person or in writing or both. It need not give the National Officer an opportunity to be heard in person so long as the opportunity to be heard is given by permitting the National Officer the opportunity to provide written submissions;
  - (iii) After giving the National Officer an opportunity to be heard, may, in its discretion, warn, reprimand, remove from office or expel the National Officer from membership, provided that a National Officer cannot be removed from office or expelled from membership, except by a resolution of a majority of two thirds of the votes able to be cast by those present at the meeting.
  - (iv) May, in its discretion, suspend the National Officer from office (for a period not exceeding 2 months) until the National Executive has heard the National Officer as to the penalty to be imposed, provided that a National Officer cannot be suspended from office except by a

resolution of a majority of two thirds of the votes able to be cast by those present at the meeting;

- (v) Shall direct the National President to immediately notify the National Officer of the decision of the National Executive in writing giving reasons for the decision.
- (g) The person who has made the charge and the National Officer charged shall not be entitled to cast a vote at the National Executive meeting concerning whether the charge is established, the penalty to be imposed or any procedural motions associated with the National Executive dealing with the charge.
- (h) The National Executive may make any directions concerning the procedure governing the dealing with the charges that it sees fit.
- (i) Where a National Officer is removed from office, or expelled from membership, under this rule then the office is vacant and there is an extraordinary vacancy in that office that may be filled under rule 23 B.(g).
- (j) A National Officer found guilty of a charge may appeal to the National Council concerning that finding of guilt, or the penalty imposed on the National Officer, or both, by giving to the National President notice of his or her intention to appeal within seven days of his or her being notified in writing of the decision of National Executive.
- (k) Giving of a notice to appeal shall not operate to stay the decision of the National Executive.
- (l) When dealing with any appeal the National Council:
  - (i) Shall give the National Officer the opportunity to be heard personally at that meeting, but may determine the charge in the absence of a National Officer notified of the meeting;
  - (ii) May, in its discretion, give the National Officer the opportunity to be heard through another person or in writing or both. It need not give the National Officer charged an opportunity to be heard in person so long as the opportunity to be heard is given by permitting the National Officer charged the opportunity to provide written submissions;
  - (iii) Shall, if it is satisfied on the balance of probabilities that the charge is established, dismiss the appeal, but shall otherwise dismiss the charge;
  - (iv) Shall vary the penalty if it is satisfied that the penalty imposed on the National Officer by National Executive was inappropriate, but shall otherwise dismiss any appeal concerning the penalty imposed;
  - (v) Shall direct the National President to immediately notify the National Officer of the decision of the National Council;
  - (vi) Shall, if it has determined that the National Officer should not be expelled from membership or removed from office, reinstate the National Officer to the National Officer's former office and thereby remove from office any person appointed or elected to fill the vacancy in that office;
  - (vii) May, in its discretion, set aside or vary any decision to suspend the National Officer.
- (m) The person who has made the charge and the National Officer charged shall not be entitled to cast a vote at the National Council meeting concerning the appeal or any procedural motions associated with the National Council dealing with the appeal.
- (n) The National Council may make any directions concerning the procedure governing the dealing with the appeal that it sees fit.

- (o) Decisions of the National Executive and National Council made under this rule are final, and are not subject to the review processes stipulated in rules 21 and 36.
- (p) Any National Officer expelled from membership by the National Executive pursuant to this rule shall not be re-admitted to membership except by a vote of the National Executive, except where the National Council has varied the penalty imposed by National Executive.
- (q) Where the charge is made against the National President, then the functions and powers conferred by this rule on the National President shall be conferred on the National Secretary.
- (r) Nothing in this rule concerning the right of a National Officer to be heard limits the ability of National Executive or National Council to conduct meetings electronically or to determine matters by post, email or other electronic means, provided that an opportunity to be heard, orally or in writing, is provided to the National Officer charged.
- (s) For the purposes of this rule where a notice is required to be given to a person it shall be delivered personally or posted by registered mail to his or her last known address.

**RENUMBER RULE 38 AS RULE 29 AND AMEND AS FOLLOWS:**

**38 29 - NATIONAL INDUSTRIAL PROCEEDINGS**

- (a) The National Executive shall have power and authority:
  - (i) to make any claims or demands upon anybody and to lodge or file any claims, demands, disputes or any other matters including applications, notifications, declaration or returns with such Tribunal, Court or other body as may be necessary or desirable and to file or lodge same for determination, and
  - (ii) to initiate, participate in and conclude any process related to the terms and conditions of employment of persons who are members of, or eligible for membership of the Union including initiating periods for bargaining with any employer, giving notice of any intention to take industrial action, making agreements with any employers or acting under any statutory provision related to registered organisations. This ~~paragraph~~ sub-rule is intended to avoid doubt as to the meaning and application of ~~paragraph~~ sub-rule (i) above.
- (b) In the event that such matters impact upon a state ~~b~~Branch, the National Executive or its authorised officers shall be authorised to consult with and seek agreement with the affected ~~b~~Branch or ~~b~~Branches before such matters are lodged or filed;
- (c)
  - (i) Notwithstanding the foregoing and having regard to ~~subclause~~ sub-rule (b), the National Secretary or in ~~his/her~~ his or her absence, the ~~Senior~~ National Assistant Secretary, shall have a discretionary power to do the things referred to in clause (a) above. The use of this power shall be reported to a meeting of the National Executive.
  - (ii) The National Secretary, or in ~~his/her~~ his or her absence, the ~~Senior~~ National Assistant Secretary, may in a particular matter delegate ~~his/her~~ his or her power under this clause to a Branch Secretary when the matter concerns only the members of that Branch. The use of this power shall be reported to a meeting of the National Executive.
- (d) For the purpose of this rule the National Secretary, or any other officer as the National Executive may decide, shall be the officer(s) authorised to sign any claims, demands, disputes or any other matters and to sign any document or instrument related to any aspect of the matters referred to in clause (a) and/or (c) on behalf of the National Executive.

- (e) The Union may be represented at any hearing of any such claim, demand, dispute or any other dealing with any matter referred to in clause (a) by the National Secretary or by such other officers or persons as the National Executive or the National Secretary may decide.

**RENUMBER RULE 39 AS RULE 30 AND AMEND AS FOLLOWS:**

**39 30 - SEAL**

- (a) The Union shall have a common seal which shall be kept in the exclusive custody of the National Secretary.
- (b) Any document not required by law to be under seal may be executed by the National Secretary.
- (c) Any document required by law to be under seal shall be executed on behalf of the Union by affixing the seal of the Union thereto and by being signed by the National Secretary and the National President, or in the absence of the National Secretary or National President, the National Assistant Secretary and/or a National Vice-President ~~one other member of the National Executive~~.
- (d) Where ~~the National Secretary has executed~~ a document ~~has been executed~~ under the seal of the ~~u~~Union, this shall be reported at the next National Executive meeting.
- (e) This rule does not confer authority on the National Officers named in sub-rule (c), but only regulates the means by which authority conferred by other rules on those officers may be exercised.

**RENUMBER RULE 40 AS RULE 31**

**40 31 - INDUSTRIAL AGREEMENTS**

- (a) The National Executive shall have full power and authority to negotiate and enter into industrial agreements. Such agreements may be signed for or on behalf of the Union by the National Secretary.
- (b) A Branch Committee shall have power to negotiate and enter into industrial agreements affecting only the members of that Branch and such agreements may be signed for or on behalf of the Branch by the Branch Secretary. Claims shall be signed for and on behalf of the Branch by the Branch Secretary.

**RENUMBER RULE 41 AS RULE 32 AND AMEND AS FOLLOWS:**

**41 32 - NATIONAL VOTING**

- (a) Voting at meeting of National Council and National Executive shall be by show of hands or by such other method as the meeting may decide. The Chair~~man~~ shall have a deliberative vote only and in the event of a tie, the question shall lapse.
- (b) In the event that a member of National Council shall for any reason or at any time be unable to be present at any meeting of National Council -
  - (i) in the case of an ~~National Officer of the Union~~, ~~he/she~~ he or she may appoint in writing another member of the National Council as ~~his/her~~ his or her proxy to exercise ~~his/her~~ his or her vote at such meeting; and,

- (ii) in any other case, the Committee of the ~~b~~Branch concerned may appoint any other member of that Branch Committee as ~~his/her~~ his or her proxy to exercise ~~his/her~~ his or her vote at such meeting.
- (c) In the event that a National Officer shall for any reason or at any time be unable to be present at any meeting of National Executive ~~he/she~~ he or she may appoint in writing another National Officer as ~~his/her~~ his or her proxy to exercise ~~his/her~~ his or her vote at such meeting.
- (d) In the event that a Branch Secretary shall for any reason or at any time be unable to be present at any meeting of National Executive ~~he/she~~ he or she may appoint in writing another member of the relevant Branch Committee of Management as ~~his/her~~ his or her proxy to exercise ~~his/her~~ his or her vote at such meeting.

**RENUMBER RULE 42 AS RULE 33 AND AMEND AS FOLLOWS:**

**~~42~~ 33 - NATIONAL QUORUMS**

- (a) The quorum at any meeting of National Council shall be eight excluding the National Officers ~~of the Union~~ but including delegates from at least three Branches.
- (b) The quorum at any meeting of National Executive shall be seven.
- (c) If no quorum be present at the expiration of thirty minutes after the time stated for the commencement of any meeting of National Council or National Executive, such meeting shall lapse, but without prejudice to another meeting being called for the same purpose as such meeting was called, at such other time and place as may be thought fit. In the event that any such other meeting has been called the business for which the same has been called may be transacted by those present, notwithstanding the fact that there is not a quorum present. Any resolutions passed at any such meeting shall be as binding and effectual as if a quorum were present. Seven days' notice of any such other meeting shall be given by the National Secretary to all members of the National Council or of the National Executive as the case may be.

**RENUMBER RULE 43 AS RULE 34 AND AMEND AS FOLLOWS:**

**~~43~~ 34 - DISPUTES BETWEEN BRANCHES**

A Branch Secretary may report to the National Secretary any dispute, existing between ~~his/her~~ his or her own and any other Branch.

**RENUMBER RULE 44 AS RULE 35 AND AMEND AS FOLLOWS:**

**~~44~~ 35- RIGHTS OF BRANCHES**

- (a) All Branches shall be completely and absolutely autonomous within the ambit of these ~~R~~rules, and shall be responsible for their own Government and administration. The Branch shall be the basic unit of the Union, and shall possess full and adequate powers to conduct its own affairs and to seek its objectives under the ~~R~~rules. The control of the Branch resides exclusively in the members of the Branch, who shall be bound by these Rules. This ~~R~~rule can never be altered except by a ballot of all financial members of the Union. Such alteration to be carried must receive a majority vote of two-thirds of the financial members of the Union.
- (b) Subject to the ~~R~~rules, or National ~~Federal~~ Policy, nothing shall alienate the right of members assembled in the General Meeting to determine the policy of the Branch. The decision of properly constituted General Meetings shall be binding on all members of the Branch.

- (c) Where the National Council is satisfied that a Branch has failed to carry out these ~~R~~rules ~~of~~ or the ~~R~~rules of the Branch or to comply with the requirements of any Industrial ~~Arbitration~~ Law or of the ~~General Manger of the Fair Work Commission any Industrial Registrar~~, it shall have power to call a general meeting of financial members of that Branch and to take such steps as may be necessary to enforce due compliance with the ~~R~~rules and/or the law.

**RENUMBER RULE 45 AS RULE 36 AND AMEND AS FOLLOWS:**

**~~45~~ 36 - NATIONAL PLEBISCITE**

- (a) Notwithstanding anything contained in these rules, a plebiscite of all members of the Union -
- (i) may be held for any purpose at the discretion of the National Council or the National Executive provided that the National Council and the National Executive shall not cause a plebiscite to be held about or in respect of an Entrenched Rule as defined herein; and,
  - (ii) shall be held if requested by resolution of special general meetings of three ~~b~~Branches or if requested by a requisition in writing and signed by not less than 5 per cent of the financial members of the Union. Such requisition to contain in block letters the name of each member signing same and the name of the establishment at which such member is employed.

Provided that no decision of the National Council or the National Executive shall be reviewed or referred to a plebiscite of members pursuant to ~~sub-rule paragraph~~ (ii) ~~of this clause~~ unless the appropriate request has been delivered to the National President or National Secretary within two months of the said decision.

Provided further that where a plebiscite has been held under ~~sub-rule paragraph~~ (i) or (ii), the subject matter which has been put to plebiscite may not be put to a further plebiscite under ~~sub-rule paragraph~~ (ii) for at least 18 months after the declaration of the outcome of the plebiscite that has been held.

- (b) Any such plebiscite shall be conducted by secret postal ballot and shall be under the absolute control and direction of a Returning Officer who shall -
- (i) prepare ballot papers which shall contain the question to be voted on;
  - (ii) issue a ballot paper to each member entitled to vote;
  - (iii) determine the time and date for the closure of the ballot, having consideration for the convenience of the voters;
  - (iv) take such steps as are necessary to ensure that a result is correctly ascertained; and,
  - (v) report the result of the plebiscite to the first meeting of the National Executive held after the conclusion of the counting of the votes cast.
- (c) The returning officer shall be the appropriate officer from the Australian Electoral Commission.
- (d) A simple majority decision of the members voting shall be final and shall prevail over any contrary decision of the National Council or National Executive.

**DELETE RULE 46 – FINANCE COMMITTEE**

**~~46—FINANCE COMMITTEE~~**



~~A Finance Committee consisting of the Officers of the Union as defined in rule 19 shall meet regularly to receive a report and recommendations from the National Secretary in relation to the current state of the Union's finances. Such a report will include details of Union income and expenditure and set and monitor budget targets if necessary. The Finance Committee may refer a matter to the National Executive.~~

~~The two ordinary members of National Executive who form part of the finance committee shall be elected by National Executive at the first National Executive meeting after the annual Council meeting each year.~~

## **RENUMBER RULE 47 AS RULE 37 AND AMEND AS FOLLOWS:**

### **47 37 – STUDENT MEMBERS**

- (a) Any person attending a course of study that upon graduation will enable them to seek employment in avocations covered by rule 2 and 3, Industry and Eligibility of these rules, shall be eligible to join the Union as a Student member.
- (b) The relevant Branch shall determine the conditions and benefits of student membership and any administration fee to be applied provided that student members shall not be deemed financial members for all purposes of these ~~R~~rules

## **PART C - BRANCH ORGANISATION**

## **RENUMBER RULE 48 AS RULE 38 AND AMEND AS FOLLOWS:**

### **48 38 - BRANCHES**

- (a) The Union may establish such Branches as the National Council may from time to time decide and the existence of the following Branches is hereby confirmed :-

- Victoria No.1
- Victoria No. 2
- Victoria No.3
- Victoria No. 4
- Tasmania No .1
- Tasmania No. 2
- New South Wales
- South Australia/Northern Territory
- Queensland
- Western Australia

- (b) The Victoria No. 1 Branch shall consist of all members of the Union employed in Victoria other than members:-
  - (i) employed under the provisions of the *Public Administration Act 2004* (Vic) as amended from time to time; and/or
  - (ii) employed in or in connection with the provision of mental and/or mental retardation services; and/or
  - (iii) eligible to be members of the Victoria No.3 or Victoria No.4 Branches.

Note: The Public Administration Act 2004 (Vic) is a successor to the Public Service Act 1974 (Vic) due to the operation of Section 7(c) of Schedule 2 (Saving and Transitional Provisions) of the Public Administration Act 2004 (Vic).



- (c) The Victoria No. 2 Branch shall consist of all members of the Union employed in Victoria who are -
- (i) employed under the provisions of the Public Administration Act 2004 (Vic) as amended from time to time; and/or,
  - (ii) employed in or in connection with the provisions of mental health and/or mental retardation services.

Note: The Public Administration Act 2004 (Vic) is a successor to the Public Service Act 1974 (Vic) due to the operation of Section 7(c) of Schedule 2 (Saving and Transitional Provisions) of the Public Administration Act 2004 (Vic).

- (d) The Victoria No. 3 Branch shall consist of all members of the Union employed in Victoria who are employed in the following classifications, other than those eligible to be members of the Victoria No. 2 or Victoria No. 4 Branches:-

Research Technologist (employed at the Peter McCallum Institute)  
 Medical Laboratory Technician  
 Physiotherapist  
 Radiographer/Medical Imaging Technologist  
 Radiotherapy Technician/Radiation Therapy Technologist  
 Hospital Librarian  
 Occupational Therapist  
 Orthoptist  
 Speech Therapist/Speech Pathologist  
 Medical Photographer  
 Medical Illustrator  
 Chiropodist/Podiatrist  
 Nulceographer/Nuclear Medicine Technologist  
 Orthotist (excluding those persons employed by the Commonwealth Government and its Statutory Authorities)  
 Orthotist/Prosthetist (excluding those persons employed by the Commonwealth Government and its Statutory Authorities)  
 Prosthetist (excluding those persons employed by the Commonwealth Government and its Statutory Authorities)  
 Recreation Therapist  
 Music Therapist  
 Dentist  
 Psycho-Therapist who would have been covered by the (Victorian) Health Professional Services Award as that award stood immediately before 1st March 1993  
 Recreation Worker  
 Welfare Worker  
 Youth Worker  
 Community Development Worker  
 Social Planner  
 Rehabilitation Counsellor  
 Behavioural Scientist who would have been covered by the (Victorian) Health Professional Services Award as that Award stood immediately before 1st March 1993  
 Orientation and Mobility Practitioners  
 Medical Records Administrator  
 Cardiac Technician  
 Safety Officer  
 Radiation Engineer

- (e) (i) The Victoria No. 4 Branch shall comprise all person (other than those eligible to be a member of any other Branch of the Union) who would have been subject to or classified according to the (Victorian) Medical Scientists Award, the (Victorian) Psychologists

Award or the (Victorian) Hospital Pharmacists Award immediately before 1st March 1993, including, but not limited to:

AUDIOLOGISTS: Without limiting the generality of the aforesaid classification, it shall include -

Otoneurologist

DIETITIAN

PHARMACIST

PSYCHOLOGIST: Without limiting the generality of the aforesaid classification, it shall include -

Behavioural Scientist

Psychotherapist other than a psychotherapist who would have been covered by the (Victorian) Health Professional Services Award as it stood immediately before 1st March 1993.

SCIENTIST: Without limiting the generality of the aforesaid classification, it shall include -

ANATOMICAL PATHOLOGY SCIENTIST

Histologist

Cytologist

BIOCHEMIST

Clinical Biochemist

Chemical Pathology Scientist

Enzymologist

CLINICAL PHARMACOLOGIST

Pharmacokineticist

ENDOCRINOLOGIST

GASTROENTEROLOGIST

GENETICIST

Cytogeneticist

Molecular Biologist

HAEMATOLOGIST

Immunohaematologist

Serologist

Blood Banking Scientist

Haemodialysis Technologist/Scientist

IMMUNOLOGIST

INTENSIVE CARE SCIENTIST/TECHNOLOGIST

LABORATORY MANAGER

MEDICAL SCIENTIST/TECHNOLOGIST

MICROBIOLOGIST

Virologist

Bacteriologist

NEUROPHYSIOLOGIST

EEG Scientist/Technologist

EMG Scientist/Technologist

PERFUSIONIST

Clinical Perfusionist

Cardiovascular Perfusionist

PHYSICAL SCIENTIST

Biophysicist

Medical Physicist

REPRODUCTIVE BIOLOGIST/TECHNOLOGIST

Andrologist  
IVF Scientist  
RESPIRATORY SCIENTIST/TECHNOLOGIST  
STATISTICIAN  
TISSUE TYPING SCIENTIST  
TOXICOLOGIST  
VASCULAR SCIENTIST/TECHNOLOGIST.

Provided that Medical Officer shall not be eligible for membership of the Branch. All persons who were members of a relevant component association (i.e. the Medical Scientist Association of Victoria and the Victorian Psychologists Association) on the relevant day and who are eligible to be members of the Union, shall be eligible to be members of the Victoria No. 4 Branch.

(ii) Entrenching Provision

This ~~R~~rule 4838(e) shall be an "Entrenched Rule", that is, notwithstanding any other provision of these ~~R~~rules, it shall not be altered except with the approval of the members of the Victoria No. 4 Branch assembled in general meeting. The requisite approval of the Victoria No. 4 Branch will only be obtained if, at a special general meeting (called in accordance with ~~R~~rule 62) 55, a vote is held and a majority of the members present vote in favour of the alteration.

- (f) The Tasmania No 1 Branch shall consist of all members of the Union in Tasmania other than those eligible for the Tasmanian No 2 Branch.
- (g) The Tasmania No. 2 Branch shall consist of all members of the Union in Tasmania employed at the University of Tasmania.
- (h) The Queensland Branch shall consist of all members of the Union in Queensland.
- (i) Notwithstanding anything elsewhere contained in these ~~R~~rules, ~~paragraph sub-rule (h) of this sub-rule~~ shall not be amended or altered in any way affecting the Queensland Branch unless agreed to by a Special General Meeting of that Branch and such meeting shall be convened for the purpose by the Branch Secretary within one month of the National Council deciding such change.
- (j) The Western Australia Branch shall consist of all of the members of the Union in Western Australia.
- (k) The New South Wales Branch shall consist of all members of the Union employed in New South Wales and/or the Australian Capital Territory.
- (l) The South Australian Branch shall consist of all members of the Union in South Australia and the Northern Territory.
- (m) The National Council shall have the power to -
  - (i) alter the area embraced by any Branch with the consent of that Branch and any other Branch concerned, and;
  - (ii) amalgamate any Branch with another with the consent of the Branches concerned; and
  - (iii) constitute a new Branch or Branches in or within any State or Territory with the consent of any existing Branch concerned.

Provided that, where National Council is exercising or is seeking to exercise any of the powers conferred upon it by this clause for the purpose of or in the course of amalgamating the Union with any other organisation or Union of employees, the consent of any Branch or Branches shall not be required.

Provided that the powers conferred in ~~paragraph sub-rule (m) of this sub-rule~~ shall not empower the National Council to alter an Entrenched Rule as defined herein.

- (n) The ~~registered~~ office of each Branch shall be at such place as the Branch Committee may from time to time determine.
- (o) Any member who is elected or appointed as a ~~paid full-time n~~National ~~o~~Officer ~~of the Union~~ shall remain a member of the Branch of which ~~she/he~~ he or she was a member immediately preceding ~~his/her~~ his or her election or appointment to such office.

## **RENUMBER RULE 48A AS RULE 38A:**

### **48A 38A - VICTORIAN NUMBER 4 BRANCH TRANSITIONAL RULE**

#### PART 1 - INTRODUCTION

- (a) The provisions of this rule shall operate notwithstanding anything elsewhere contained in these rules.
- (b) The provisions of this Rule shall operate
  - (i) insofar as they relate to the MSAV and the VPA, during the first transitional period, and
  - (ii) insofar as they relate to the AHP, during the second transitional period.

The purpose of this Rule is to establish and enlarge a new Branch of the Union, the membership of which will reflect the combined membership of three existing Associations in Victoria, namely, The Association of Hospital Pharmacists (AHP), The Medical Scientist Association of Victoria (MSAV) and the Victorian Psychologists Association (VPA).

At the conclusion of each transitional period this Rule will cease to govern such operations of the Branch as are governed by it during such transitional period and the Branch will be governed by the Rules of the Union, except to the extent where the words of this Rule clearly intend part of this Rule to have effect and/or govern the operations of the Branch after the conclusion of either transitional period.

- (c) For the purposes of this Rule:-
  - (i) "the first transitional period" shall mean the period commencing on the first certification date and finishing on the close of the Branch Annual General Meeting in September 1994;
  - (ia) "the second transitional period" shall mean the period commencing on the second certification date and finishing on the close of the Branch Annual General Meeting in September, 1996;
  - (ii) "the first certification date" shall mean the date upon which this Rule is first certified by a Registrar;
  - (ia) "the second certification date" shall mean the date upon which amendments to this Rule in respect of the AHP are certified by the Registrar;
  - (iii) "the Branch" shall mean the Victoria No. 4 Branch of the Union;
  - (iv) "component Association" means the AHP MSAV and the VPA collectively;

- (v) "relevant component Association" means the component Association of which a person is entitled to be a member.
- (vi) "first relevant day" means the first certification date.
- (via) "the second relevant day" means the second certification date.

## PART 2 - MEMBERSHIP

- (d) To the extent of any inconsistency, this Part of this Rule will prevail over Rule 6.
- (e) On and from the first certification date, any person who is, on that date, a member of the Union and eligible to be a member of the Branch shall be and be deemed to be a member of the Branch.
- (f) At any time after the first certification date, all members of the component Associations who are eligible for membership of the Union under the eligibility Rule of the Union shall, upon receipt by the President of the Branch of an application made on their behalf by the President of the relevant component Association become and be deemed to be members of the Union, provided that no person shall become a member of the Union pursuant to this paragraph unless she or he has been notified by letter that on a date nominated by the relevant component Association and specified in the letter (being not less than six weeks after the date of the letter) an application in accordance with this Rule will be made on her or his behalf to the Union. The letter shall advise him/her of the financial obligations arising from membership of the Union and the circumstances and the manner in which a member may resign membership. The letter shall also advise her or him that if a written objection to the President of the relevant component Association is received within one month of the letter then no application on her or his behalf will be made.
- (g) Any member of the relevant component Association who becomes a member of the Union shall be deemed to be a financial member of the Union to the extent that she or he is a financial member of the relevant component Association at the time of becoming a member of the Union.
- (h) Any member of a relevant component Association who becomes a member of the Union shall become liable to pay dues to the Union from the date of receipt by the Union of an application made on their behalf by the President of the relevant component Association.
- (i) Any period of financial membership of a relevant component Association immediately preceding membership of the Union shall be deemed to be financial membership of the Union for all purposes of these Rules.
- (j) Any member of the Union who is simultaneously a member of a relevant component Association and who pays subscriptions to the relevant component Association in an amount equivalent to or greater than the amount payable by that member as annual contributions pursuant to these Rules shall, subject to these Rules, during the currency of any agreement between the Union and the relevant component Association providing for the payment of that member's subscription by the relevant component Association to the Branch, be for all purposes a financial member of the Union. To the extent of any inconsistency, this sub-Rule prevails over Rule 8.
- (k) If a member of the Branch who is deemed to be financial pursuant to this Rule transfers to another Branch of the Union pursuant to Rule 11 of these Rules, she or he shall, when annual contributions next fall due and thereafter, be liable to pay to the Branch to which she or he has transferred the annual contribution determined by that Branch in accordance with Rule 8 of these Rules.

## PART 3 - OFFICERS OF BRANCH

- (l) The Officers of the Branch shall be
  - (i) From the first certification date until the completion of the first transitional period or until elections are held under sub-rule (o) whichever is the later the Branch President, the

Branch Senior Vice President, the Branch Junior Vice President, the Branch Secretary, the Branch Assistant Secretary and two Branch Trustees.

- (ii) From the second certification date the Branch President, the Branch Senior Vice President, two Branch Junior Vice Presidents, the Branch Secretary, the Branch Assistant Secretary and two Branch Trustees.
- (m) From the first certification date until the second certification date the Branch Committee of the Branch shall consist of the Officers of the Branch, as listed in sub-Rule 48A(1), and twelve Committee members.
- (ma) From the second certification date until the completion of the second transitional period or until an election is held under sub-rule (oa), whichever is the later, the Branch Committee of the Branch shall consist of the officers of the Branch as listed in subparagraph 48(A)(1)(ii) and 17 Committee members.
- (mb) From the completion of the second transitional period or elections held under sub-rule (oa), whichever is the later, the Branch Committee of the Branch shall consist of the officers of the Branch as listed in subparagraph 48(A)(1)(ii) and 12 Committee members.
- (n) On and from the first certification date, each of the following persons, provided that she or he is, on the first certification date, a member of the committee of management of a relevant component Association and eligible for membership of the Union, shall be and be deemed to be a member of the Branch Committee and, subject to removal from office in accordance with these Rules, shall hold such office on the Branch Committee of the Branch until the completion of the first transitional period or until their successors are duly elected, in elections under sub-rule (o), whichever is the later:

President	Leanne TAAFFE
Senior Vice President	David LIST
Junior Vice President	Nina DAVIDSON
Secretary	Sam EICHENBAUM
Assistant Secretary	Jennie BREMNER
Trustee	Ibolya NYULASI
Trustee	Jill GIESE

Branch Committee	James ALCOCK
	Joseph MANITTA
	Graeme RIDDLE
	Vanda VOLPE
	Phillip PAULL
	Christopher PEARCE
	Eddie KEIR
	Patricia LEAPER
	Patricia MIACH
	Peter PINNEY
	Robyn STARGUTT

- (na) On and from the second certification date the Branch Committee of the Branch shall consist of the officers and members of the Branch Committee of the Branch holding office under this part as at that date together with each of the persons listed below. Provided that, such listed person is, on the second certification date, a member of the Committee of Management of the AHP and eligible for membership of the union then he or she shall be deemed to be a member of the Branch Committee and, subject to removal from office in accordance with these rules, shall hold such office on the Branch Committee of the Branch until the completion of the second transitional period or until his or her successor is duly elected in elections under sub-rule (oa) whichever is the later:

Junior Vice President	Gregory Weeks
Branch Committee	Reginald Arulappa

Judith Cameron  
Geoffrey Davies  
Ronald Harper  
Emma Wong

- (o) (i) The first Branch elections after the first certification date will be held in 1994 under Rule 29.
- (ii) At these elections all Officers of the Branch, as listed in subparagraph 48(A)(1)(i), twelve Branch Committee members and Branch Delegates to the National Council will be elected.
- (iii) For the purposes of qualifications for office under Rule 29, any period of financial membership of a relevant component Association immediately preceding membership of the Union shall be deemed to be financial membership of the Union.
- (iv) Notwithstanding anything else in these Rules, at the first elections and thereafter, one position of Junior Vice President, one Trustee position and one Committee position (the reserved positions) shall be elected by and from members of the Branch who are also eligible to be members of the Victorian Psychologists Association. Nominations for these positions shall be called in accordance with Rule 29, mutatis mutandis. The reserved positions shall be called, respectively "Vice President (Psychologists)", "Trustee (Psychologists)" and "Committee Member (Psychologists)".

In the event of a casual vacancy occurring on the Branch Committee during the transitional period the Branch Committee may appoint any member of the Branch, who would have been eligible to be a member of the relevant component Association from which the departed Committee member came, to fill that vacancy.

- (oa) (i) The first Branch elections after the second certification date will be held in 1996 under Rule 29, for the positions referred to in paragraph (ii) of this sub-rule.
- (ii) Notwithstanding anything else in these Rules, at these elections one position of Junior Vice President, and two Committee positions shall be elected by and from members of the Branch who are also eligible to be members of the Association of Hospital Pharmacists. Nominations for these positions shall be called in accordance with Rule 29, mutatis mutandis. These positions shall be called respectively 'Vice President (Pharmacist)', 'Committee Members (Pharmacists)'.  
(iii) The persons elected in accordance with this sub-rule shall be the successors to the persons named in sub-rule (na) herein.
- (iv) The persons so elected shall take office from the declaration of their election and shall hold office until the completion of the Branch Annual General Meeting in September 1998 or until successors thereto have been elected and taken office.
- (v) For the purposes of qualification for office under Rule 29, any period of financial membership of a relevant component association immediately preceding membership of the union shall be deemed to be financial membership of the union.

In the event of a casual vacancy occurring on the Branch Committee during the second transitional period, the Branch Committee may appoint any member of the Branch who would have been eligible to be a member of the relevant component association from which the departing Committee member came, to fill that vacancy.

- (ob) (i) The second Branch elections after the second certification date will be held in 1998 under Rule 29.

- (ii) At these elections and elections thereafter, all officers of the Branch as listed in sub-rule 48(A)(1)(ii), twelve branch committee members and delegates to the National Council will be elected.
- (iii) For the purposes of qualification for office under Rule 29, any period of financial membership of a relevant component association immediately preceding membership of the union shall be deemed to be financial membership of the union.
- (iv) Notwithstanding anything else in these Rules, at these elections and thereafter, of the positions referred to in paragraph (ii) of this sub-rule, one position of Junior Vice President, one Trustee position and one committee position shall be elected by and from the members of the Branch who are also eligible to be members of the Victorian Psychologists' Association; and one position of Junior Vice President and two committee positions shall be elected by and from members of the Branch who are also eligible to be members of the Association of Hospital Pharmacists. Nominations for these positions shall be called in accordance with Rule 29 mutatis mutandis. These positions shall be called respectively "Vice President (Psychologist)", "Trustee (Psychologist)", "Committee Member (Psychologist)", "Vice President (Pharmacist)", "Committee Members (Pharmacists)".
- (v) In the event of an appointment to fill a casual vacancy occurring on the Branch Committee, the Branch Committee may appoint any member of the Branch who would have been eligible to be a member of the relevant component association to which the departing Committee member was eligible to be a member of, to fill that vacancy.
- (p) At the first meeting after the first certification date the Branch Committee shall appoint a Returning Officer who shall hold office until a successor is duly appointed in accordance with Rule 29. The Rules of the Union, so far as they relate to Returning Officers, apply to the Returning Officer appointed under this sub-Rule.
- (q)
  - (i) This sub-Rule concerns the appointment of delegates to National Council during the first transitional period.
  - (ii) At the first meeting after first certification date the Branch Committee shall appoint, by and from the Committee, delegates to National Council on the basis of one delegate for every 1000 members or part, thereof, provided that members in this sub-Rule means the combined membership of the component Associations. Those delegates shall, subject to removal from such office in accordance with these Rules, hold such office until an election can be held to fill the position.
  - (iii) At its second meeting after the first certification date, the Branch Committee shall elect the requisite numbers of its members as Branch Delegates to National Council and those persons shall, subject to removal from such office in accordance with these Rules, hold such office until the completion of the transitional period.
  - (iv) Notice of the election shall be given by the Returning Officer of the Branch when notice of the holding of the meeting is given to Branch Committee members.
  - (v) Nominations shall be in writing, signed by the nominee and nominator (who shall be a member of the Branch Committee) and shall be delivered to the Returning Officer of the Branch before the meeting is scheduled to commence.
  - (vi) Notwithstanding Rule 29, the election shall be conducted by secret ballot during the course of the meeting.

**RENUMBER RULE 49 AS RULE 39 AND AMEND AS FOLLOWS:**



## 49 39 - BRANCH MANAGEMENT

- (a) The Government, management and the control of the affairs of each ~~b~~Branch shall, subject to these rules and any proper direction of the National Council or the National Executive be vested in a Branch Committee.
- (b) It shall be competent for any one ~~b~~Branch or more than one ~~b~~Branch in any State or Territory to form a State Council or Conference, the ~~R~~rules of such Council or Conference to be drawn up by the participating ~~b~~Branches and submitted to National Council for adoption. Such State Council or Conference shall have no power other than that of recommendation.
- (c) Subject to clause (d) hereof each ~~b~~Branch shall be bound by these rules.
- (d) Each ~~b~~Branch may make rules from time to time for its own internal management and may therefore add to, amend, rescind or alter any of these rules insofar as they relate to the internal management of a ~~b~~Branch through its Branch Committee of management or by a special general meeting of its members.
- (e) Any rule or rules made by a ~~b~~Branch pursuant to clause (d) of this rule shall be forwarded to the National Secretary who, upon receipt of any information and documentation necessary for the purpose, shall forthwith apply to the ~~General Manager of the Fair Work Commission Industrial Registrar~~ for certification of the same and upon certification such rule or rules shall form part of the rules of the Union for all purposes other than Rule ~~75~~ 67 but shall apply only to the Branch initiating the same.
- (f) If at any time not less than 20 per cent of the members of the Branch petition the Committee of Management of the Branch requesting the withdrawal of the Branch from the Union the Committee shall hold a ballot of financial members to decide the question. Within 14 days from the receipt of the petition the Secretary of the Branch shall call a special meeting of members to appoint a returning officer and two assistants to conduct the ballot. The question shall be decided by a simple majority, and if the result of the ballot is in the affirmative, the Committee of Management of the Branch shall immediately take steps to effect the Branch's withdrawal from the Union. The funds and effects of the Branch shall be the absolute property of the Branch, except so far as the Branch is liable to National Council in respect ~~of badges~~, capitation fees and levies. No Officer or Servant of the National Council shall in any way seek to obstruct or disadvantage a Branch taking advantage of this rule. The returning Officer shall serve notice on the National Secretary in respect of the result of the ballot, and if the Branch has decided to withdraw, then this shall be communicated to all National Councillors by the National Secretary. The withdrawal of the Branch shall be final as from the 21st day after the returning Officer's announcement of the ballot results.

## RENUMBER RULE 50 AS RULE 40 AND AMEND AS FOLLOWS:

### 50 40 - BRANCH OFFICERS

- (a) The Officers of a ~~b~~Branch shall consist of the Branch President, the Branch Senior Vice-President, the Branch Junior Vice-President, the Branch Secretary, the Branch Assistant Secretary and the two Branch Trustees (“the Branch Officers”). Provided that in the New South Wales Branch ~~and the Victoria No. 1 Branch~~ there shall be no Branch Trustees.
- (b) In the New South Wales Branch ~~and the Victoria No. 1 Branch~~, the offices of Branch Secretary and Branch Assistant Secretary (who shall be called the Branch Assistant Secretary-Treasurer ~~in the New South Wales Branch and the Victoria No. 1 Branch~~) shall be ~~full-time~~ paid offices. The offices of Branch Secretary in the Victoria No. 3 Branch ~~and Branch Assistant Secretary~~ shall be a ~~full-time~~ paid offices.
- (c) The Branch Officers shall be ex officio members of any sub-committee of the ~~b~~Branch. Provided that in the case of the New South Wales Branch, ~~the Victoria No. 1 Branch~~ and the Victoria No. 3

Branch the Branch Officers shall not be ex officio members of the ~~Audit and Compliance~~ Finance Committee established pursuant to ~~R~~rule 88 75.

**RENUMBER RULE 51 AS RULE 41 AND AMEND AS FOLLOWS:**

**~~51~~ 41 - BRANCH COMMITTEE**

- (a) A Branch Committee shall consist of the Officers of the Branch and not less than five and not more than fifteen ordinary members as the Branch may from time to time determine, provided that such decision must be endorsed by a Special General Meeting of the Branch convened for that purpose at which at least twenty-five financial members are present. Provided that for the purposes of the elections to be held in 2012 pursuant to the Scheme approved by the Federal Court of Australia on 21 June 2012, the number of ordinary members of the Victoria No. 1 Branch shall be eight ~~(8)~~ and the number of ordinary members of the Victoria No. 3 Branch shall be five ~~(5)~~.

**RENUMBER RULE 52 AS RULE 42 AND AMEND AS FOLLOWS:**

**~~52~~ 42 - NEW SOUTH WALES BRANCH COMMITTEE**

- (a) Notwithstanding ~~R~~rule ~~51~~ 41, the New South Wales Branch Committee shall consist of the Branch President, the Branch Senior Vice-President, the Branch Junior Vice-President, the Branch Secretary, the Branch Assistant Secretary-Treasurer and five (5) ordinary members.
- (b) The Branch Committee shall exercise all the powers as contained in ~~R~~rule ~~54~~ 44 other than ~~sub-rules Rules-54~~ 44 (e) and ~~54~~ 44(f) and shall be responsible for the management of the Branch's affairs, property and funds. The Branch Committee shall be the committee of management of the Branch.
- (c) Notwithstanding ~~R~~rule ~~55~~ 45, the Branch Committee shall meet at least monthly,
- (d) A special meeting of the Branch Committee may be called by the Branch Secretary if requested to do so by no less than four ~~(4)~~ members of the Branch Committee.
- (e) Meetings of the Branch Committee may be conducted by telephone or by such other electronic means as may be available from time to time.
- (f) Notwithstanding ~~R~~rule ~~68~~ 58(a)(ii), six ~~(6)~~ members of the Branch Committee shall constitute a quorum.

**RENUMBER RULE 53 AS RULE 43 AND AMEND AS FOLLOWS:**

**~~53~~ 43 - NEW SOUTH WALES BRANCH COUNCIL**

- (a) The supreme governing body of the New South Wales Branch, subject to these ~~R~~rules and to the control of the Branch members as hereinafter mentioned, shall be the Branch Council which shall meet annually at a place and on a date to be fixed by the Branch Committee. Provided that the Branch Committee may call meetings of the Branch Council at other times to deal specifically with matters arising under ~~sub-rule~~ ~~sub-rule~~ (f)(C) hereof.
- (b) The Branch Council shall consist of:
- (i) The Branch Officers;
- (ii) Twenty-five (25) Councillors constituted as follows:

- (A) Twenty-one (21) Councillors with at least one (1) but not more than two (2) being drawn from hospitals or health services in each of the fifteen (15) local health districts (refer Note 1) provided that one (1) Councillor shall come from the Health Managers Sub-Bran­ches;
- (B) One (1) Councillor from a Private Hospital;
- (C) One (1) Councillor from a non-public sector aged care facility;
- (D) One (1) Councillor from the NSW Ambulance Services; and
- (E) One (1) Councillor from the Australian Capital Territory.

Note 1 - The fifteen (15) local health districts (“LHD”) as constituted by section 17, and specified in Schedule 1 of the *Health Services Act 1997* (NSW), as at the date of the certification of this Rrule, with these being Sydney LHD, South Western Sydney LHD, South Eastern Sydney LHD, Illawarra Shoalhaven LHD, Western Sydney LHD, Nepean Blue Mountain LHD, Northern Sydney LHD, Central Coast LHD, Hunter New England LHD, Murrumbidgee LHD, Southern NSW LHD, Western NSW LHD, Far West LHD, Mid North Coast LHD, and Northern NSW LHD.

- (c) Meetings of the Branch Council may be conducted by telephone or by such other electronic means as may be available from time to time.
- (d) In the event that a member of Branch Council shall for any reason or at any time be unable to be present at any meeting of Branch Council he/she he or she may appoint in writing another member of the Branch Council as his/her his or her proxy to exercise his/her his or her vote at such meeting. A member of Branch Council may be appointed proxy for any number of members.
- (e) A special meeting of Branch Council shall be called by the Branch Committee if requested to do so by no less than fifteen ~~(15)~~ members of the Branch Council.
- (f) The Branch Council shall, subject to these Rrules and to the control of the Branch members as hereinafter mentioned, have power:
  - (A) to generally watch the interests of the Union in the area where the Branch is established;
  - (B) to fix the remuneration and terms and conditions of employment of any officer or employee of the Branch;
  - (C) to suspend or remove from office in accordance with these Rrules any officer of the Branch;
  - (D) in addition to the powers of the Branch Committee to do so, to alter, amend, rescind or add to any Rrules insofar as they relate to the internal management of the bBranch pursuant to Rrule ~~49~~ 39(d);
  - (E) to develop and implement Rrule ~~83~~ 90 Branch policies and procedures;
  - (F) to review decisions of the Branch Committee; and
  - (G) to take any action which in its opinion is in the interests of the Branch, provided that such action does not conflict with the policies and procedures of the Union.
- (g) The quorum for a meeting of the Branch Council shall be eighteen ~~(18)~~ members of the Council.

**RENUMBER RULE 54 AS RULE 44 AND AMEND AS FOLLOWS:**

## **54 44 - POWERS AND DUTIES OF BRANCH COMMITTEE**

A Branch Committee shall, subject to these rules and to the control of the bBranch members as hereinafter mentioned, have power -

- (a) to transact all the business of the bBranch;
- (b) to supervise and pay all, lawful debts of the Branch;
- (c) to periodically review and attend to the collection of all fees, levies and dues payable by bBranch members;
- (d) to generally watch the interests of the Union in the area in which the bBranch is established;
- (e) to fix the remuneration and terms and conditions of employment of any officer or employee of the bBranch;
- (f) to suspend or remove from office in accordance with these rules any officer of the bBranch;
- (g) to direct the Branch Secretary and Branch Assistant Secretary in the performance of their duties;
- (h) to investigate grievances and disputes submitted by its members;
- (i) to appoint collectors and agents to collect moneys on behalf of the Union and/or bBranch;
- (j) to instruct its delegates to the National Council how to vote on any matter;
- (k) to appoint a Branch Auditor;
- (l) to take any action which in its opinion is in the interests of the bBranch, provided that such action does not conflict with the policies of the Union; and,
- (m) to exercise any other powers conferred upon it by these rules.
- (n) Workplace committees (however named) may be established by branch committees at workplaces where fifteen or more are enrolled as members of the Branch, provided that workplaces where there is less than fifteen employees, these employees may be grouped conveniently by the Branch committee of management so as to form workplace committees and so that each workplace committee so formed shall comprise not less than fifteen members of the Branch. Provided further the Branch committee may from time to time authorise the establishment of more than one Sub-Branch in a workplace.

## **RENUMBER RULE 55 AS RULE 45 AND AMEND AS FOLLOWS:**

### **55 45 - MEETINGS OF BRANCH COMMITTEE**

- (a) A Branch Committee shall meet at least quarterly and at such other times as it may determine provided that the Branch President or the Branch Secretary may, by notice in writing either by post, email or other communication method call a meeting of the Branch Committee and shall call such a meeting if requested to do so by not less than one-third of the members of such Committee.
- (b) The Branch President or the Branch Secretary may decide that a meeting of the Branch Committee of Management be conducted by such telephonic or electronic means as may from time to time be available. The members of the Committee shall participate in such a meeting and the decision of the majority shall be binding as if such decision were obtained at a regularly constituted meeting of the Committee.

- (c) Out of Session Votes
- (i) The Branch President may determine that an Out of Session Vote of the Branch Committee be held on any matter with sufficient importance that it needed to be resolved before the next full meeting of the Branch Committee.
  - (ii) An out of session motion may be put to the vote of all members of the Branch Committee by either postal or electronic means. The results of the vote must be recorded.
  - (iii) Once the result of an Out of Session Vote is determined, having provided a reasonable period for a vote to be returned, the Branch President must advise the Branch Committee of the result indicating the number who vote for, against or abstained and the number who did not vote.
  - (iv) If any five members of the Branch Committee object to the Branch President to a matter being dealt with by way of an Out of Session Vote, the vote must not be taken and the matter must be referred to a meeting of the Branch Committee called in accordance with rule 45(a).
  - (v) The outcome of an Out of Session Vote must be recorded as such in the minutes of the meeting immediately preceding the Out of Session Vote as if it was a vote of that meeting.

**RENUMBER RULE 56 AS RULE 46 AND AMEND AS FOLLOWS:**

**56 46 - BRANCH PRESIDENT**

The Branch President ~~of a branch~~ shall be the official head of the ~~b~~Branch and -

- (i) shall preside at all meetings of the ~~b~~Branch and Branch Committee (and the Branch Council in the case of the New South Wales Branch) and preserve order thereat so that business may be conducted in due form with propriety and in conformity with standing orders;
- (ii) shall sign all documents requiring ~~his/her~~ his or her signature as official head of the branch and shall sign all minutes of the branch duly confirmed in the presence of the meeting confirming the same;
- (iii) shall instruct the Branch Secretary to call meetings of the Branch Committee and General or Special Meetings of members when necessary;
- (ii~~v~~) shall generally ensure the well-being of the Union and its members and the carrying out of the objects of the Union within the area administered by ~~his/her~~ his or her ~~b~~Branch.

**RENUMBER RULE 57 AS RULE 47 AND AMEND AS FOLLOWS:**

**57 47 - BRANCH VICE-PRESIDENTS**

- (a) The Branch Vice-Presidents shall at all times assist the Branch President in the execution of ~~his/her~~ his or her duties and when requested by the Branch President shall carry out such functions of the Branch President in ~~his/her~~ his or her absence as the Branch President authorises in writing.
- (b) In the absence of the Branch President, the Senior Vice-President (and in ~~his/her~~ his or her absence also the Junior Vice-President) shall preside over a meeting of the ~~b~~Branch or the Branch Committee (or the Branch Council in the case of the New South Wales Branch) and when so doing shall exercise all the powers and functions of the Branch President.

- (c) In the event of the Branch President and all Vice-Presidents being absent from a meeting of a ~~b~~Branch or a Branch Committee (or the Branch Council in the case of the New South Wales Branch), the members present shall appoint a chairman to preside over the meeting.

**RENUMBER RULE 58 AS RULE 48 AND AMEND AS FOLLOWS:**

**58 48 - BRANCH SECRETARY**

The Secretary shall be the chief executive officer of the ~~b~~Branch and subject to these ~~R~~rules, have charge of the general conduct, administration and business, of the ~~b~~Branch. ~~He/she~~ He or she shall be the investigating and organising officer of the ~~b~~Branch and shall be the officer to sue and to be sued on behalf of the ~~b~~Branch. The Secretary shall be ex-officio, a member of all committees and Sub-Committees of the ~~b~~Branch.

The Branch Secretary shall -

- (a) call and attend all meetings of the ~~b~~Branch and Branch Committee unless excused and keep or cause to be kept minutes of the business transacted at such meetings;
- (b) receive or cause to be received all moneys on behalf of the ~~b~~Branch and issue receipts and pay all moneys received by ~~him/her~~ him or her on behalf of the Branch into such bank, Building society, credit union or any other financial institution as the Branch Committee may from time to time decide;
- (c) have charge of the financial books and statements of ~~his/her~~ his or her Branch;
- (d) prepare and present to each meeting of the Branch Committee an up-to-date financial statement and when called upon to do so by the Branch Committee, produce all relevant books;
- (e) keep an up-to-date register of ~~b~~Branch members showing their names and their postal addresses so far as known and shall periodically notify the National Secretary of any changes in such list;
- (f) conduct the business and correspondence on behalf of the ~~b~~Branch;
- (g) forward to the National Secretary within fourteen days of the Annual General Meeting of ~~his/her~~ his or her ~~b~~Branch a list of the full names and addresses of all office-holders in the ~~b~~Branch;
- (h) provide the National Returning Officer and the Branch Returning Officer with such assistance as is necessary to enable them to conduct any elections.
- (i) inform the Branch President whenever ~~he/she~~ he or she will be absent from duty or from a meeting;
- (j) hand to ~~his/her~~ his or her successor, on the latter's election, all moneys, Branch records and property held by ~~him/her~~ him or her on behalf of the Branch;
- (k) subject to any direction of the Branch Committee appoint, engage, control and dismiss such clerical and other staff as may be necessary for the conduct of the affairs of the ~~b~~Branch;
- (l) prepare returns required by the Fair Work Act 2009 and the Fair Work (Registered Organisations) Act 2009;
- (m) have the right to attend or appoint a member of the ~~b~~Branch to attend any meeting of members of the ~~b~~Branch and to speak and vote on any matter before such meeting provided that a person appointed to attend any such meeting by the Branch Secretary shall also have the right to speak and vote thereafter subject always to any directions given to ~~him/her~~ him or her by the Secretary; and,

- (n) carry out such other duties as the Branch Committee may from time to time assign to ~~him/her~~ him or her or as may be conferred upon ~~him/her~~ him or her by these rules or as may be required by the Fair Work Act 2009 and the Fair Work (Registered Organisations) Act 2009;

Provided that in the case of the New South Wales Branch ~~and the Victoria No. 1 Branch~~, the Branch Secretary shall not exercise the powers referred to in ~~sub-rules paragraphs~~ (b), (c), (d) and (j) above. Provided further that the Branch Secretary of ~~these this~~ Branches shall not exercise the power outlined in ~~sub-rule paragraph~~ (l) above in respect of financial and accounting returns required by the *Fair Work (Registered Organisations) Act 2009*.

#### **RENUMBER RULE 59 AS RULE 49 AND AMEND AS FOLLOWS:**

##### **59 49 - BRANCH ASSISTANT SECRETARY**

The Branch Assistant Secretary shall -

- (a) assist the Branch Secretary at all times in the execution of ~~his/her~~ his or her duties; and,
- (b) be subject to the direction of the Branch Secretary and act in ~~his/her~~ his or her stead whenever appointed to do so by the Branch Committee of Management.

#### **RENUMBER RULE 60 AS RULE 50 AND AMEND AS FOLLOWS:**

##### **60 50 - BRANCH ASSISTANT SECRETARY-TREASURER OF THE NEW SOUTH WALES BRANCH ~~AND VICTORIA NO. 1 BRANCH~~**

Notwithstanding ~~R~~rule 59 49, the Branch Assistant Secretary-Treasurer of the New South Wales Branch ~~and the Victoria No. 1 Branch~~ shall:

- (a) assist the Branch Secretary at all times in the execution of ~~his/her~~ his or her duties;
- (b) receive or cause to be received all moneys on behalf of the ~~b~~Branch and issue receipts and pay all moneys received by ~~him/her~~ him or her on behalf of the Branch into such bank, Building society, credit union or any other financial institution as the Branch Committee may from time to time decide;
- (c) have charge of the financial books and statements of ~~his/her~~ his or her Branch;
- (d) prepare and present to each meeting of the Branch Committee an up-to-date financial statement and when called upon to do so by the Branch Committee;
- (e) hand to ~~his/her~~ his or her successor, on the latter's election, all moneys and property held by ~~him/her~~ him or her on behalf of the Branch;
- (f) prepare financial and accounting returns required by the *Fair Work (Registered Organisations) Act 2009*;
- (g) ensure that Branch Policies and Procedures are implemented in accordance with ~~R~~rule 83 90;
- (h) carry out such other duties of the Branch Committee as it may from time to time assign to ~~him/her~~ him or her or as may be conferred upon ~~him/her~~ him or her by these ~~R~~rules or as may be required by the *Fair Work Act 2009* and the *Fair Work (Registered Organisations) Act 2009*;
- (i) subject to the ~~sub-rules~~ sub-rules (b)-(h) above, be subject to the direction of the Branch Secretary and act in ~~his/her~~ his or her stead whenever appointed to do so by the Branch Committee.



**RENUMBER RULE 61 AS RULE 51 AND AMEND AS FOLLOWS:**

**61 51 - BRANCH TRUSTEES**

The Branch Trustees shall invest the funds of the ~~b~~Branch and otherwise deal with the property and funds of the ~~b~~Branch as they may from time to time be directed by the Branch Committee. Provided that the duties and functions of Branch Trustee in the New South Wales Branch ~~and the Victoria No. 1 Branch~~ shall be undertaken by the Branch Assistant Secretary-Treasurer as directed by the Branch Committee or as required by any Branch policy and procedure determined pursuant to ~~R~~rule ~~83~~ 90.

**RENUMBER RULE 62 AS RULE 52 AND AMEND AS FOLLOWS:**

**62 52 - BRANCH AUDITOR**

A Branch Auditor shall -

- (a) be appointed annually by the Branch Committee;
- (b) be a competent person within the meaning of the Fair Work (Registered Organisations) Act 2009 (the “Act”) and the Fair Work (Registered Organisations) Regulations (the “Regulations”);
- (c) perform such functions and duties as are prescribed by the Act and the Regulations and such other functions and duties not inconsistent with the Act and the Regulations as are required by the Branch Committee;
- (d) have access to and examine if desired all books, papers, deeds, documents and accounts of the Branch Committee and be empowered to question any office-bearer or officer or employee of the ~~b~~Branch with regard to the same and to obtain from any bank or other institution at which the funds of the ~~b~~Branch are deposited or invested such information as ~~he/she~~ he or she may require; and,
- (e) have power to place before Branch Committee any suggestion ~~he/she~~ he or she may desire to make concerning the financial affairs of that ~~b~~Branch.

**RENUMBER RULE 63 AS RULE 53 AND AMEND AS FOLLOWS:**

**63 53 - BRANCH FUNDS AND PROPERTY**

- (a) The funds and property of a ~~b~~Branch shall consist of -
  - (i) any real or personal property of which the ~~b~~Branch by these rules or by an established practice not inconsistent with these rules, has, or, in the absence of any limited term lease, bailment or arrangement would have, the right to custody, control or management;
  - (ii) the amounts of entrance fees, contributions, fees, and levies collected by the ~~b~~Branch less so much of those amounts as is payable to the National Council in accordance with these rules;
  - (iii) any interest, rents or dividends derived from the investment of the funds;
  - (iv) any ~~superannuation or~~ long service leave fund operated or controlled by the ~~b~~Branch for the benefit of its officers or employees;



- (v) any sick pay fund, accident, pay fund, funeral fund or like fund operated or controlled by the **bBranch** for the benefit of its members;
  - (vi) any property acquired wholly or mainly by expenditure of the moneys of such funds and property or derived from other assets of such funds and property; and,
- (b) The funds and property of a **bBranch** shall be vested in the Trustees of the **bBranch** who shall deal with the same as directed by the Branch Committee. Provided that, in the case of the New South Wales Branch ~~and the Victoria No. 1 Branch~~ there shall be no Branch Trustees.
- (c) All cheques ~~drawn and written~~ authorisations for the transfer and/or disbursement of funds ~~on the funds~~ of a **bBranch** shall be signed by the Branch Secretary (or in ~~his/her~~ his or her absence the Branch Assistant Secretary) together with any two ~~(2)~~ members of the Branch Committee. In the case of the New South Wales Branch ~~and the Victoria No. 1 Branch~~ all cheques and written authorisations for the transfer and/or disbursement of funds of the **bBranch** shall be signed by the Branch Assistant Secretary-Treasurer (or in ~~his/her~~ his or her absence the Branch Secretary) together with any two (2) members of the Branch Committee. ~~In the case of the Victoria No. 3 Branch all cheques and written authorisations for the transfer and/or disbursement of funds of the branch shall be signed by the Branch Secretary (or in his/her absence the Branch Assistant Secretary) together with any two (2) members of the Branch Committee.~~
- (d) For the expenditure of the funds of a **bBranch** on the general administration of the **bBranch** and for purposes reasonably incidental to the general administration of the **bBranch**, the prior approval of the Branch Committee shall not be necessary before such cheques ~~(or written authorisations for the transfer and/or disbursements of funds of the New South Wales Branch, the Victoria No. 1 Branch and the Victoria No. 3 Branch)~~ are signed or accounts paid.
- (e) Subject always to clause (f) of this rule but notwithstanding anything elsewhere contained in these rules, a shall not make any loan, grant or donation of an amount exceeding \$1,000 unless the Committee of the **bBranch** -
- (i) has satisfied itself -
    - (a) that the making of the loan, grant or donation would be in accordance with the other rules of the Union and the **bBranch**; and,
    - (b) in relation to a loan, that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and,
  - (ii) has approved the making of the loan, grant or donation.
- (f) The provisions of clause (e) of this rule shall not apply to or in relation to payments made by a **bBranch** by way of provision for, or reimbursement of, out of pocket expenses incurred by persons for the benefit of the Union or the **bBranch**.

**RENUMBER RULE 64 AS RULE 54 AND AMEND AS FOLLOWS:**

**64 54 - REMOVAL OF BRANCH OFFICERS ETC.**

- (a) ~~An Officer of a branch or a member of a Branch Committee or delegate of a branch to the National Council or a Councillor of the New South Wales Branch Council~~ A Branch Officer, Branch Committee Member or Branch Delegate to National Council or a New South Wales Branch Councillor may be removed from ~~his/her~~ his or her office if the Branch Committee (or in the case of the New South Wales Branch, by Branch Council) by majority resolution of members voting finds ~~him/her~~ him or her guilty, in accordance with these rules, of misappropriation of the funds of the Union or any **bBranch** thereof, a substantial breach of the rules of the Union, gross

misbehaviour or gross neglect of duty or finds that ~~he/she~~ he or she has ceased, according to these rules, to be eligible to hold ~~his/her~~ his or her office.

- (b) Such person may be charged by any member under this rule and such a matter should in the first instance be dealt with by the Union's Ombudsman under rule ~~17~~ 13. Any charge shall be in writing and shall be forwarded to the Branch President or the Branch Secretary, who shall notify the person charged of the details of the charge.
- (c) The person charged shall be given not less than fourteen days' notice in writing of the time and place of the meeting at which the charge is to be heard and determined and shall be entitled to attend such meeting and to be heard but not to vote thereat.
- (d) A member so removed by the Branch Committee (or in the case of the New South Wales Branch, by the Branch Council) shall have the right to appeal to the National Executive provided that ~~he/she~~ he or she gives to the National Secretary notice of ~~his/her~~ his or her intention to appeal within seven days of ~~his/her~~ his or her being notified in writing of ~~his/her~~ his or her removal, but the giving of such notice shall not operate to stay the decision of the Branch Committee (or in the case of the New South Wales Branch, the Branch Council).
- (e) Notwithstanding the foregoing, either the Branch President or the Branch Secretary may, in their discretion, suspend from office a person charged under this rule pending determination of the charge but in no event shall a person remain suspended for a period exceeding twenty-eight days. Provided that this ~~sub-rule~~ sub-rule shall not apply to the New South Wales Branch, the Victoria No. 1 Branch and the Victoria No. 3 Branch.
- (f) A person shall be ineligible to hold office as ~~an Officer of a bBranch or member of a Branch Committee or delegate of a bBranch to the National Council or a Councillor of the New South Wales Branch Council~~ Branch Officer, Branch Committee member, Branch Delegate to National Councillor or a New South Wales Branch Councillor if
  - (i) ~~he/she~~ he or she becomes of unsound mind; or,
  - (ii) ~~he/she~~ he or she ceases to be a financial member of the Union.

## **RENUMBER RULE 65 AS RULE 55 AND AMEND AS FOLLOWS:**

### **~~65~~ 55 - BRANCH GENERAL MEETINGS**

- (a) An Ordinary General Meeting of the ~~b~~Branch may be called at any time on a resolution of the Branch Committee being carried that such a meeting be held.
- (b) A Special General Meeting of the ~~b~~Branch shall be called by the Branch President or the Branch Secretary upon receipt by ~~him/her~~ him or her of a request signed by not less than 200 financial members or five per cent of the members of the ~~b~~Branch, whichever is the lesser amount. Such request shall state the business to be discussed at the meeting and shall contain the signature and name written in block letters of each petitioner and shall also contain a statement that the petitioner has read and understood the request prior to attaching his or her signature.
- (c) Not less than one month's written notice of the time, place and agenda of all General Meetings shall be given to each shop steward of the ~~b~~Branch. Providing that when a matter requires immediate attention such lesser notice of a Special General Meeting as may be determined by the Branch Committee may be given.
- (d) A Special General Meeting shall not be competent to deal with any matter other than the reason set out by the petition of members or the notification of such meeting as has been given by the Branch Committee.

- (e) Any Ordinary General Meeting or Special General Meeting shall be held at such time and place as shall be determined by the Branch Committee of the ~~b~~Branch, but should such Special General Meeting be called under the provisions of ~~paragraph~~ ~~sub-rule~~ (b) it shall be held not later than 35 days following the receipt of the petition by the President or Secretary of the ~~b~~Branch.
- (f) No General Meeting of members of a ~~b~~Branch shall have power to direct a Branch Committee or in the case of the New South Wales Branch, the Branch Council or reject or review a decision of a Branch Committee or in the case of the New South Wales Branch, the Branch Council unless at least 200 members or five per cent of the financial members of the ~~b~~Branch (whichever amount is the lesser) are present at the meeting.
- (g) This ~~sub-rule~~ ~~sub-rule~~ shall apply to the New South Wales Branch, the Victoria No. 1 Branch and the Victoria No. 3 Branch.
  - (i) Each Branch may call a general meeting of members by way of a series of general meetings of members at different locations.
  - (ii) For the convenience of facilitating member attendance, video conferencing or any other electronic means as may be available from time to time may be used for the series of general meetings.
  - (iii) At the series of general meetings, the ~~Branch~~ President or a ~~Branch~~ Vice-President shall preside. All members of the Branch shall be entitled to attend and vote.
  - (iv) The general meeting is taken to have occurred at the time of the last of the meetings in the series.
  - (v) Quorum shall be calculated by reference to the total number of members attending the series of general meetings. Voting shall be decided by the majority of those members present at the series of general meetings.

**RENUMBER RULE 66 AS RULE 56 AND AMEND AS FOLLOWS:**

**~~66~~ 56 – WORKPLACE COMMITTEES (SUB BRANCHES) AND REPRESENTATIVES**

- (a) Workplace Committees (however named) may be established by Branch Committees at workplaces where ~~fifteen~~ ~~15~~ or more are enrolled as members of this ~~u~~Union provided that workplaces where less than ~~fifteen~~ ~~15~~ employees are enrolled shall be grouped conveniently by the Branch committee so as to form workplace committees and so that each workplace committee so formed shall not comprise less than ~~fifteen~~ ~~15~~ members of the ~~u~~Union. Provided that the Branch committee may establish more than one workplace committee in a workplace.
- (b) It shall be a duty of the Branch Secretary to ensure that Union delegates (however named) are elected at workplaces whether they are part of a workplace committee or not.
- (c) The rules relating to the election of such delegates and workplace committees and the location of such delegates and workplace committees shall be determined by the relevant Branch committee of management. However as a guide the following processes may apply:
  - (i) A person shall not be elected as a Union delegate unless ~~he/she~~ ~~he~~ or ~~she~~ is a financial member of the ~~b~~Branch.
  - (ii) A Union delegate shall be elected for a fixed and regular term in accordance with procedures adopted by the Branch committee of management and consistent with these rules.
  - (iii) A Union delegate may -

1. Represent the members of the ~~b~~Branch employed in ~~his/her~~ his or her area in dealings between those members and management;
  2. Generally represent the ~~b~~Branch in ~~his/her~~ his or her area;
  3. Take all reasonable and necessary steps to enrol as members all eligible employees in ~~his/her~~ his or her area;
  4. Ensure that all members in ~~his/her~~ his or her area are and remain financial;
  5. Where authorized in writing by the Branch Secretary, collect all fines, fees, levies and dues owing by members employed in ~~his/her~~ his or her area, pay over all moneys so collected to the Branch Secretary at least monthly and obtain a receipt for the same;
  6. Immediately report to the Branch Secretary any complaint from a member in ~~his/her~~ his or her area or any breach or suspected breach of any agreement or award which is occurring or is suspected of having occurred in ~~his/her~~ his or her area; and
  7. Report to the Branch Secretary on any matter concerning ~~his/her~~ his or her area as directed by the Secretary or the Branch Committee.
  8. Take any action which is authorised or directed by the Branch Secretary or the Branch Committee.
- (d) The election of a person as a Union delegate shall automatically terminate -
- (i) if ~~he/she~~ he or she resigns ~~his/her~~ his or her membership of the ~~b~~Branch or is expelled there from in accordance with these rules;
  - (ii) if ~~he/she~~ he or she dies;
  - (iii) if ~~he/she~~ he or she ceases to be employed in the area in respect of which he/she was appointed.
- (e) Should the Branch Secretary become aware that any Union Delegate is not performing such duties or responsibilities as set out in (e), or is reported by a financial member or members at ~~his/her~~ his or her place of employment for dereliction of these duties, the Secretary shall report same to the Committee of Management who shall have the power to refer the matter to the ~~u~~Union ~~e~~Ombudsman and if necessary following the ~~e~~Ombudsman report, summon the Union Delegate before the Committee and should the charges be proved, the Committee shall have the power to dismiss such Union Delegate and cause another election to take place within 28 days of the dismissal.

The Committee shall ensure that a Union Delegate charged with dereliction of duty is informed in writing at least two weeks before the meeting, at which such charges are to be heard of the nature of the charges and the Committee of Management shall ensure a full and fair hearing of such charges, such person shall be eligible for re-election as a Union Delegate.

**RENUMBER RULE 67 AS RULE 57 AND AMEND AS FOLLOWS:**

**67 57 - SUB-BRANCHES - NEW SOUTH WALES BRANCH**

- (a) Notwithstanding ~~R~~rule ~~66~~ 56, Sub-Branches of the New South Wales Branch may be established by the Branch Committee at workplaces where fifteen ~~(15)~~ or more are enrolled as members attached to the Branch, provided that workplaces where less than fifteen ~~(15)~~ employees are enrolled shall

be grouped conveniently by the Branch Committee so as to form Sub-Branches and so that each Sub-Branch so formed shall comprise not less than fifteen ~~(15)~~ members attached to the Branch. Provided further the Branch Committee may authorise the establishment of more than one Sub-Branch in a workplace.

- (b) (i) In addition to the Sub-Branches created pursuant to ~~Rule~~ sub-rule 5765A(a) of these ~~R~~rules, separate Sub-Branches known as Health Managers Sub-Branches, may be established by Branch Committee on a local health district basis where fifteen ~~(15)~~ or more are enrolled as members attached to the Branch, provided that where less than fifteen ~~(15)~~ employees are enrolled they may be grouped by Branch Committee so that each Health Managers Sub-Branch shall comprise not less than fifteen ~~(15)~~ members attached to the Branch.
- (ii) Members eligible to be members of a Health Managers Sub-Branch may not attend nor vote at Sub-Branch meetings of the institution at which they are employed. They may not accept office in any institutional or other Sub-Branch.
- (c) The members of the Sub-Branch shall elect a committee consisting of a President, Vice-President, Secretary and a number of members of the Sub-Branch, all of whom shall be representatives of the Sub-Branch. The number of ordinary Sub-Branch members to be elected to the committee shall be determined by the Sub-Branch, but, in any case, such number shall be not less than five ~~(5)~~. If more than sufficient candidates are nominated elections shall be held in the order, President, Vice President, Secretary, Committee Member. The quorum of a Sub-Branch committee shall be not less than four ~~(4)~~. The quorum of a Sub-Branch meeting shall be not less than seven ~~(7)~~, provided that only members who at the time of nomination have had at least 12 months' continuous financial membership shall be eligible to nominate for the position of President, Vice-President, Secretary, except where this provision is waived by the Branch Secretary on the grounds of not previously having sufficient members at a workplace. All other provisions of this rule apply to those members.

The Sub-Branch committee shall have no power to alter or rescind rules or to enforce, or perform functions in relation to the enforcement of rules, or to exercise any of the functions of management.

- (d) (i) The members of the Sub-Branch committee shall be elected annually by secret ballot at the Annual General Meeting and shall hold their positions until the next succeeding Annual General Meeting or until their successors have been appointed, whichever is the sooner.
- (ii) At least twenty-one ~~(21)~~ days notice in writing on notice boards accessible to all members of the Sub-Branch shall be given by the Sub-Branch Secretary to members of the date set for Annual General Meetings.
- (iii) At the Annual General Meeting, a Returning Officer and two ~~(2)~~ Scrutineers shall be appointed for the purposes of conducting elections under this ~~R~~rule and shall exercise their respective functions until their successors have been appointed. The Returning Officer and Scrutineers so appointed,
- (1) may or may not be a member of the Union,
  - (2) shall not be the holder of any office in or an employee of the Branch or Sub-Branch of the Union. In the event of the Returning Officer or Scrutineers being unable to carry out their duties the Sub-Branch committee may appoint a Returning Officer and/or Scrutineers to conduct the election.

The Returning Officer and Scrutineers so appointed by the Sub-Branch committee shall only act until the Returning Officer and Scrutineer can resume their duties.

- (iv) Nominations must be in writing, signed by the member who is nominated and endorsed by at least two (2) financial members and must be forwarded by registered mail or by any other means that ensures delivery so as to reach the Returning Officer at least seven ~~(7)~~

days prior to the Annual General Meeting. The Returning Officer shall provide each member with a receipt upon delivery of his nomination.

- (v) The Returning Officer shall check all nominations received for compliance with the requirements of these Rules and shall reject any that do not so comply; provided that in the event of his finding a defect in a nomination ~~he/she~~ he or she shall, before rejecting the nomination, notify the person concerned of the defect, and, where it is practicable to do so, give ~~him/her~~ him or her the opportunity of remedying the defect within seven ~~(7)~~ days of his having been so notified.
  - (vi) If more than sufficient candidates are nominated an election shall be held.
  - (vii) The Returning Officer shall obtain sufficient ballot papers for the election and shall make arrangements so as to enable members to vote at the Annual General Meeting.
  - (viii) The Returning Officer shall initial all ballot papers which shall not bear any other distinguishing mark.
  - (ix) Any member of the Sub-Branch who will not be present at the Annual General Meeting may lodge with the Returning Officer, at any time after the closing date for nominations and before the Annual General Meeting commences, a written request for an absentee vote. On the receipt of such a written request, the Returning Officer will promptly provide the appropriate absentee voting form to the member. This absentee voting form shall be completed by the member and submitted to the Returning Officer prior to the commencement of the Annual General Meeting. All absentee votes so received shall be counted by the Returning Officer at the Annual General Meeting.
  - (x) In the cases of an equality of votes for two ~~(2)~~ or more candidates the Returning Officer shall determine by drawing lots which of the members is elected.
  - (xi) Any candidate at any such election may appoint a scrutineer who shall be entitled at the expense of the candidate to be present at all stages of the ballot.
  - (xii) The Returning Officer shall declare the result of the ballot following the count which includes any absentee votes received at the Annual General Meeting and all persons elected shall occupy their positions forthwith.
- (e) There shall be a General Meeting of each Sub-Branch at least once in each quarter for the payment of contributions and other general business, except in cases where the Branch Committee sanctions the holding of meetings less frequently. Members of each Sub-Branch shall attend all general meetings of the Sub-Branch, at which non-members shall not be admitted. An Annual General Meeting of the Sub-Branch shall be held each year in the month of February, March or April, at which nominations shall be received and an election take place for the committee of the Sub-Branch.

The committee of a Sub-Branch may at any time direct the Secretary to call a Special General Meeting of the Sub- Branch.

At least seven ~~(7)~~ days' notice in writing on notice boards accessible to all members of the Sub-Branch shall be given by the Sub-Branch Secretary to members of the date set for general meetings or special meetings with the exception of Annual General Meetings where twenty-one (21) days notice shall be given.

- (f) The committee of a Sub-Branch may meet once in every calendar month. Such meetings will be called by the Secretary by notice in writing to members of the Sub-Branch committee. The President of the Sub-Branch may, however, at any time instruct the Secretary to summon a special meeting of the committee.



- (g) All moneys collected by Sub-Branches shall be forwarded to the Branch Assistant Secretary-Treasurer within two ~~(2)~~ weeks after each general meeting of the Sub-Branch, together with a statement showing the names of the members making such payments and the amount so paid.
- (h) Each Sub-Branch may adopt by-laws for its own conduct and guidance provided that such by-laws are not inconsistent with any of the ~~R~~rules of the Branch and are first approved by the Branch Committee. Such by-laws may be altered, added to, amended or rescinded by a simple majority vote of members at an Annual or Special General Meeting of the Sub-Branch, provided that such alterations, additions, amendments or rescissions must be approved by the Branch Committee.
- (i)
  - (i) The President shall preside at all meetings conducted by the Sub-Branch and will preserve good order so that business may be conducted properly.
  - (ii) ~~He/she~~ He or she shall see that minutes of the meeting are read and confirmed and upon such reading and confirmation sign the same.
  - (iii) The President shall have a deliberate vote only.
  - (iv) The Vice-President shall assist the President, and shall in ~~his/her~~ his or her absence exercise the power of the President.
- (j) The Secretary shall attend all meetings and prepare documents for the Sub-Branch and committee meetings. ~~He/she~~ He or she shall conduct and file all correspondence, summon members to meetings of the Sub-Branch committee and members of the Sub-Branch to the quarterly meeting. He/she shall submit to the President, any urgent information ~~he/she~~ he or she may officially receive and the President, together with the Secretary, shall decide upon the best course to be proceeded with until the next meeting of the Sub-Branch committee. ~~He/she~~ He or she shall keep a register of the names and addresses of the representatives and members of the Sub- Branch.
- (k) Subject to the resolutions and the decisions of the Branch Council and of the Branch Committee, the meetings of the Sub-Branch shall have the general control and conduct of the business of the Sub-Branch and decisions of the meetings shall bind all members of the Sub-Branch.
- (l) Casual vacancies occurring in the positions of President, Vice-President, Secretary or member of the committee of the Sub-Branch shall be filled by the Sub-Branch committee from members of the Sub-Branch who would be eligible to nominate for the vacant position at an annual election. Such person shall only hold such position until the following election.
- (m) No member of the Sub-Branch committee shall be dismissed unless a resolution is passed by a majority of members at an ordinary or Special General Meeting of the Sub-Branch convened for the purpose, finding ~~him/her~~ him or her guilty, in accordance with these rules, of misappropriation of the funds of the Union, a substantial breach of the rules of the Union, gross misbehaviour or gross neglect of duty, or finding that ~~he/she~~ he or she has ceased, according to these rules, to be eligible to hold his position.
 

No such motion will be moved unless the member concerned has been given fourteen ~~(14)~~ days' notice in writing of the intention to move a resolution charging ~~him/her~~ him or her with an offence, the alleged grounds for such resolution and the time, date and place of the meeting at which he shall be given the opportunity to be heard.
- (n) This ~~R~~rule shall be reviewed by the Branch Council prior to the elections due in 2014.

**RENUMBER RULE 68 AS RULE 58 AND AMEND AS FOLLOWS:**

**68 58 - BRANCH QUORUM**

- (a) Quorums for the meetings of a ~~b~~Branch held in accordance with these rules, shall be as follows -

- (i) at any General Meeting of a ~~b~~Branch 25 financial members;
  - (ii) at any meeting of the Branch Committee, a majority of members of the Branch Committee or ten members thereof, whichever is the lesser.
- (b) If no quorum be present at the expiration of 15 minutes after the time stated for the commencement of the meeting, such meeting shall lapse, but without prejudice to another meeting being called for the same purpose as such meeting was called, at such other time and place as may be thought fit. In the event that any such other meeting has been called, the business for which the same has been called may be transacted by those present, notwithstanding the fact that there is not a quorum present. Any resolutions passed at any such meeting shall be as binding and effectual as if a quorum were present. Seven days' notice of any such other meeting shall be given by the Branch Secretary to all members of the ~~b~~Branch or Branch Committee as the case may be.
- (c) Notwithstanding anything else contained in these rules, where a ~~b~~Branch has less than 100 members the following quorum shall apply:
- (i) At any General Meeting of a ~~b~~Branch 10 financial members;
  - (ii) at any meeting of the Branch Committee, a majority of members of the Branch Committee or five members thereof, whichever is the lesser.

**RENUMBER RULE 69 AS RULE 59 AND AMEND AS FOLLOWS:**

**~~69~~ 59 - BRANCH VOTING**

- (a) Voting at all meetings of a ~~b~~Branch or Branch Committee or the New South Wales Branch Council shall be by show of hands or by such other method as the meeting may decide. The Chair~~man~~ shall have a deliberative vote only and in the event of a tie the questions shall lapse.

**RENUMBER RULE 70 AS RULE 60 AND AMEND AS FOLLOWS:**

**~~70~~ 60 - BRANCH PLEBISCITE**

- (a) Notwithstanding anything contained in these rules, a plebiscite of all members of a ~~b~~Branch -
  - (i) may be held for any purpose at the discretion of the Branch Committee; and,
  - (ii) shall be held if requested by a requisition in writing and signed by not less than 5 per cent of the financial members of the ~~b~~Branch.

Such requisition to contain in block letters the name of each member signing same and the name of the establishment at which such member is employed. Provided that no decision of a Branch Committee or the New South Wales Branch Council shall be reviewed or referred to a plebiscite of members pursuant to ~~paragraph~~ sub-rule (ii) of this clause unless the appropriate request has been delivered to the Branch President or Branch Secretary within two months of the said decision.

- (b) Any such plebiscite shall be conducted by secret postal ballot and shall be under the absolute control and direction of the Branch Returning Officer who shall -
  - (i) prepare ballot papers which shall contain the question to be voted on;
  - (ii) issue a ballot paper to each member entitled to vote;



- (iii) determine the time and date for the closure of the ballot, having consideration for the convenience of the voters;
  - (iv) take such steps as are necessary to ensure that a result is correctly ascertained; and,
  - (v) report the result of the plebiscite to the first meeting of the Branch Committee held after the conclusion of the counting of the votes cast.
- (c) A simple majority decision of the members voting shall be final and shall prevail over any contrary decision of the Branch Committee or the New South Wales Branch Council.

## PART D – GENERAL

### INSERT NEW RULE 61 – REGISTERED RULES AS FOLLOWS:

#### 61- REGISTERED OFFICE

The registered office of the Union shall be at such place as the National Council or National Executive from time to time may decide.

### INSERT NEW RULE 62 – RULE BOOK AS FOLLOWS:

#### 62 - RULE BOOK

Each member shall be supplied with a copy of the registered rules of the Union upon application to the relevant Branch Secretary.

### RENUMBER RULE 71 AS RULE 63 AND AMEND AS FOLLOWS:

#### ~~71~~ 63 - INSPECTION OF BOOKS

The Branch must provide access to the Branch's financial records in accordance with its statutory obligations.

~~Any financial member of the Union shall, on giving three days' notice to the Branch Secretary if seeking to inspect Branch books, or the National Secretary if seeking to inspect the National Union's books, and within the ordinary office hours of the Union be entitled to inspect the books and documents of the Union, provided that the Union may refuse to allow inspection of such books and documents where to do so would, or would be likely to, amount to a breach of confidentiality or an invasion of privacy in respect of any other member or person.~~

### RENUMBER RULE 72 AS RULE 64 AND AMEND AS FOLLOWS:

#### ~~72~~ 64 - MEMBERS ENGAGED ON UNION BUSINESS

- (a) Should any member of the Union lose any part of ~~his/her~~ his or her salary or wages or be required to work overtime in consequence of ~~his/her having been being~~ engaged on the business of the Union or ~~his/her~~ his or her ~~b~~Branch under instructions from the National Executive or ~~his/her~~ his or her Branch Committee, the National Executive or ~~his/her~~ his or her Branch Committee, as the case may be, shall make good all such loss or shall remunerate the member at ~~his/her~~ his or her rate of salary for the time occupied by ~~him/her~~ him or her whilst so engaged. Reasonable out-of-pocket expenses shall be allowed members engaged on Union or ~~b~~Branch business.
- (b) Any Officer or member transacting business on behalf of the Union or any ~~b~~Branch thereof shall report on such business to the body which appointed ~~him/her~~ him or her to carry out such business.

Any such Officer or member neglecting to make such report may forfeit all claims for any time lost and expenses incurred whilst so engage on such business.

**RENUMBER RULE 73 AS RULE 65 AND AMEND AS FOLLOWS:**

**73 65 - DISSOLUTION**

The Union shall not be dissolved so long as there are two **b**Branches and there are not less than 100 members. The question of dissolution shall be determined by a national plebiscite in accordance with these rules. The provisions of this clause shall not apply to any amalgamation with any other trade **u**Union or organisation.

**RENUMBER RULE 74 AS RULE 66 AND AMEND AS FOLLOWS:**

**74 66 - AFFILIATION**

- (a) The Union may, be resolution of the National Council, affiliate with any body having objects in common with the objects of the Union.
- (b) A Branch Committee may by resolution affiliate the **b**Branch with any body having objects in common with the objects of the Union.

**RENUMBER RULE 75 AS RULE 67 AND AMEND AS FOLLOWS:**

**75 67 - ALTERATIONS OF RULES**

- (a) The National Council shall have power to make new **R**rules or to add to, amend, rescind or otherwise alter these rules at a meeting of the National Council or by postal ballot of the members of the National Council conducted pursuant to **R**rule 25 of these rules.
- (b) Notice of any proposal for the making of a new **R**rule or for the adding to, amendment, rescission or other alteration of any of these **R**rules shall be given in writing to each member of the National Council and to the Secretary of each **b**Branch at least one month prior to the relevant meeting of the National Council or to the commencement of the postal ballot (as the case may be) provided that any such proposal may itself be amended when being considered by the relevant meeting.
- (c) Nothing contained in this **R**rule shall derogate from the power conferred by **R**rule 49 on a **b**Branch to make **R**rules for its own internal management but details of any proposal to make such a **R**rule shall be contained in the notice calling the special general meeting of members at which the proposal is to be considered.

**RENUMBER RULE 76 AS RULE 68 AND AMEND AS FOLLOWS:**

**76 68 - NAME AND RESIDENCE**

A register of the names and addresses of the **Branch** Officers and members of the **b**Branch shall be kept in the **registered** office of the **b**Branch. A member shall notify the Branch Secretary in writing within fourteen days of any change of that member's address. Any notice which is required to be given to a member under these **R**rules shall be forwarded to the address of that member last appearing on that register of members.

**RENUMBER RULE 77 AS RULE 69 AND AMEND AS FOLLOWS:**

## **77 69 - DUAL OFFICES**

- (a) No person shall hold more than one ~~full-time~~ paid office within the Union or any ~~Branch of the Union thereof~~.
- (b) A paid National Officer shall not also hold an elected position within a Branch of the Union.
- ~~(b)~~(c) No person shall simultaneously hold more than one of the offices of National President, National Senior Vice-President, National Junior Vice-President, National Trustee, National Secretary or National Assistant Secretary.
- ~~(e)~~(d) (i) Where a Branch Secretary is elected or appointed to one of the National offices of National President, National Senior Vice-President, National Junior Vice-President, National Trustee, National Secretary, ~~Senior National Assistant Secretary~~ or National Assistant Secretary, ~~he/she~~ he or she shall not while holding that National office also act as a member of National Executive by virtue of being a Branch Secretary. During the time that the Branch Secretary holds that National office, the Assistant Branch Secretary of the relevant Branch shall act as a member of the National Executive instead of that Branch Secretary, and shall, on the National Executive, exercise all the powers and duties otherwise exercised by that Branch Secretary. If the Branch Secretary ceases to hold that National office, ~~he/she~~ he or she shall resume the position on National Executive ~~he/she~~ he or she holds by virtue of ~~his/her~~ his or her office of Branch Secretary.
- (ii) Where a Branch Assistant Secretary is elected or appointed to one of the National offices of National President, National Senior Vice-President, National Junior Vice President, National Trustee, National Secretary, ~~Senior National Assistant Secretary~~ or National Assistant Secretary, and where the Branch Secretary of that same Branch is elected or appointed to one of those National offices, that Branch Assistant Secretary shall not while holding that National office also act as a member of National Executive by virtue of ~~paragraph sub-rule 73(e)(d)(i)~~. During the time that the Branch Assistant Secretary holds that National office, and the Branch Secretary of that same Branch holds one of those National offices, the Branch Committee of Management of the relevant Branch shall appoint one of its members to act as a member of the National Executive instead of that Branch Secretary, and that person shall, on the National Executive, exercise all the powers and duties otherwise exercised by that Branch Secretary. If the Branch Assistant Secretary ceases to hold that National office, ~~he/she~~ he or she shall act in the position on National Executive ~~he/she~~ he or she would otherwise act in instead of the Branch Secretary.
- ~~(d)~~(e) No person shall simultaneously hold more than one of the following offices -  
Branch President, Branch Vice-President, Branch Secretary, Branch Assistant Secretary, Branch Trustee, and ordinary member of Branch Committee.
- ~~(e)~~(f) No person shall simultaneously hold a ~~full-time~~ paid National office position and an office of ordinary member of Branch Committee.

## **RENUMBER RULE 78 AS RULE 70 AND AMEND AS FOLLOWS:**

### **78 70 - FULL TIME PAID OFFICERS - NEW SOUTH WALES BRANCH AND NEW SOUTH WALES STATE REGISTERED HEALTH SERVICES UNION NSW**

- (a) Notwithstanding anything elsewhere in the ~~R~~rules of the Union, in the New South Wales Branch where the Branch Secretary or Branch Assistant Secretary-Treasurer is also elected or appointed to an equivalent full time paid office in the Health Services Union NSW, an organisation registered pursuant to the provisions of the *Industrial Relations Act 1996* (NSW), and is in receipt of remuneration and terms and conditions of employment from the Health Services Union NSW equal to that determined by the Branch Council, ~~he/she~~ he or she shall be deemed to be paid by the New South Wales Branch for such time as ~~he/she~~ he or she continues to receive such payment from

Health Services Union NSW and shall not be entitled to be paid by the New South Wales Branch. For all other purposes under the rules of the Union the officer shall be deemed to be the holder of a full time paid office in the New South Wales Branch.

- (b) For the avoidance of doubt, if an officer referred to in ~~sub-rule~~ ~~sub-rule~~ (a) herein ceases to be paid by the Health Services Union NSW in respect of the full time paid office, ~~he/she~~ ~~he or she~~ will be entitled to remuneration and terms and conditions of employment provided by the New South Wales Branch identical to that previously provided by the Health Services Union NSW.

## **RENUMBER RULE 79 AS RULE 71 AND AMEND AS FOLLOWS:**

### **79 71 - STANDING ORDERS AND RULES OF DEBATE**

The National Council shall determine from time to time the standing orders and rules of debate to apply to meetings of the National Council, National Executive, Branch Committees and General meetings of members of the Union or any ~~b~~Branch thereof. A copy of such standing orders and rules of debate as determined from time to time shall be supplied free of charge by a Branch Secretary to any financial member of the ~~b~~Branch requesting the same.

## **RENUMBER RULE 80 AS RULE 72 AND AMEND AS FOLLOWS:**

### **80 72 – ASSOCIATE MEMBER**

Associate membership is only open to persons who are not otherwise eligible to apply for ordinary membership.

A resigning or retiring member may apply to remain an Associate Member. Further any person, who supports the objects of the Union as outlined in ~~R~~rules ~~2 and 3~~, may apply to become an Associate Member.

The relevant Branch shall determine the conditions and benefits of Associate Membership and any administration fee to be applied provided that Associate Members shall not be deemed financial members for all purposes of these ~~R~~rules.

## **AMEND PART E – FINANCIAL ACCOUNTABILITY AS FOLLOWS:**

### **PART E – FINANCES AND FINANCIAL ACCOUNTABILITY**

#### **DELETE RULE 81 – PURPOSE AND SCOPE**

##### **~~81 – PURPOSE AND SCOPE~~**

- ~~(a) — The purpose of this part is to comply with the requirements of the Fair Work (Registered Organisations) Act 2009 (referred to in this part as the Act).~~
- ~~(b) — This Part shall apply to the Union and each of its Branches, other than rules 88 and 91 that shall only apply to the New South Wales Branch, the Victoria No.1 Branch and the Victoria No.3 Branch.~~

#### **DELETE RULE 82 – DEFINITIONS**

##### **~~82 – DEFINITIONS~~**

- ~~(a) — **board** means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.~~
- ~~(b) — **child** has the same meaning as that word in sections 6 and 7 of the Act.~~

- ~~(c) **committee of management** means:
 
  - ~~(i) in relation to a Branch other than the NSW Branch, the Branch Committee established by rule 51;~~
  - ~~(ii) in relation to the NSW Branch, the New South Wales Branch Council established by rule 51;~~
  - ~~(iii) in relation to the Union, the National Executive established by rule 26.~~~~
- ~~(d) **de facto partner** has the same meaning as that phrase in section 6 of the Act.~~
- ~~(e) **declared person or body** has the same meaning as that phrase in section 148C (5) of the Act.~~
- ~~(f) **disclosure period** is the financial year ending on 30 June of each year.~~
- ~~(g) **non cash benefit** has the same meaning as that phrase in section 6 of the Act.~~
- ~~(h) **office** has the same meaning as that word in section 9 of the Act.~~
- ~~(i) **officer** has the same meaning as that word in section 6 of the Act.~~
- ~~(j) **parent** has the same meaning as that word in section 6 of the Act.~~
- ~~(k) **peak council** means a National, State, Regional or occupational council or federation that is effectively representative of a significant number of organisations (within the ordinary meaning of the term) representing employers or employees.~~
- ~~(l) **related party** has the same meaning as that phrase in sections 6 and 9B of the Act.~~
- ~~(m) **relative** in relation to a person, means:
 
  - ~~(i) a parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or~~
  - ~~(ii) the spouse of the first mentioned person.~~~~
- ~~(n) **relevant non cash benefit** has the same meaning as that phrase in section 148A of the Act.~~
- ~~(o) **relevant remuneration** has the same meaning as that phrase in section 148A of the Act.~~
- ~~(p) **remuneration** has the same meaning as that word in section 6 of the Act.~~
- ~~(q) **spouse** has the same meaning as that word in section 6 of the Act.~~
- ~~(r) **stepchild** has the same meaning as that word in section 6 of the Act.~~
- ~~(s) **step parent** has the same meaning as that word in section 6 of the Act.~~

**INSERT NEW RULE 73 AS FOLLOWS:**

**73 . INTRODUCTION**

- (a) The purposes of this Part of the rules are to:
  - (i) Establish principles of financial governance and accountability that ensure the conduct of the Union’s financial affairs is transparent and to hold officers accountable;
  - (ii) Comply with the requirements of the Act.
- (b) The financial year of the Union and the Branches shall end on the 30th June in each year.

**INSERT NEW RULE 74 AS FOLLOWS:**

**74 - THE FINANCIAL RESPONSIBILITIES OF OFFICERS**

**Financial Responsibilities of National Officers**

- (a) Each National Officer of the Union has the following responsibilities in relation to the financial management of the Union:
  - (i) Not to make improper use of (i) confidential information in order to gain a personal advantage, or an advantage for any person other than the Union.
  - (ii) Not to make improper use of his or her position in order to gain a personal advantage, or an advantage for any person other than the Union.

- (iii) Not to improperly exercise his or her powers for a purpose other than to serve the interests of the Union in order to gain a personal advantage, or an advantage for any person other than the Union.
  - (iv) To fully disclose to National Executive, and take reasonable steps to avoid, any conflict between his or her duty to the Union and his or her personal interests.
  - (v) To ensure that the financial reports of the Union are prepared in an accurate and timely manner, all National officers shall answer fully and frankly such questions that are reasonably asked, and provide such information as is reasonably requested, by the National Executive or the National Auditor.
  - (vi) To inform the National Executive, or the National Auditor, of any matter that the National is aware of which, unless disclosed, might result in the financial reports not providing a true and fair view of the financial position and performance of the Union.
- (b) The responsibilities of National Officers stated in rule are in addition to, and do not derogate from, duties imposed by any rule of law or statute.
- (c) Conduct of an officer is not improper, and is not a breach of the responsibilities imposed by this rule, if before or after the conduct occurs the National Officer makes a full and frank disclosure to the National Executive of all material facts relating to the conduct and the National Executive ratifies that conduct.
- (d) The National Trustees shall deal with the property and funds of the Union as they may from time to time be directed by the National Council or National Executive.

#### **Financial Responsibilities of Branch Officers**

- (e) Each Branch Officer of the Union has the following responsibilities in relation to the financial management of the Branch:
- (i) Not to make improper use of confidential information in order to gain a personal advantage, or an advantage for any person other than the Branch.
  - (ii) Not to make improper use of his or her position in order to gain a personal advantage, or an advantage for any person other than the Branch.
  - (iii) Not to improperly exercise his or her powers for a purpose other than to serve the interests of the Branch in order to gain a personal advantage, or an advantage for any person other than the Branch.
  - (iv) To fully disclose to Branch Executive, and take reasonable steps to avoid, any conflict between his or her duty to the Branch and his or her personal interests.
  - (v) To ensure that the financial reports of the Branch are prepared in an accurate and timely manner, all Branch Officers shall answer fully and frankly such questions that are reasonably asked, and provide such information as is reasonably requested, by the Branch committee of management or the Branch Auditor.
  - (vi) To inform the Branch committee of management, or the Branch Auditor, of any matter that the Branch officer is aware of which, unless disclosed, might result in the financial reports not providing a true and fair view of the financial position and performance of the Branch.
- (f) The responsibilities of Branch Officers stated in rule are in addition to, and do not derogate from, duties imposed by any rule of law or statute.

- (g) Conduct of a Branch Officer is not improper, and is not a breach of the responsibilities imposed by this rule, if before or after the conduct occurs Branch Officer makes a full and frank disclosure to the officer's Branch committee of management of all material facts relating to the conduct and the Branch committee of management ratifies that conduct.

**INSERT NEW RULE 75 AS FOLLOWS:**

**75 - FINANCE COMMITTEES OF THE UNION AND THE BRANCHES**

- (a) There shall be a Finance Committee of the Union (called the National Finance Committee) consisting of the National Officers.
- (b) Each Branch shall have a Finance Committee (however named) comprising:
  - (i) In the case of the New South Wales Branch, the Branch Assistant Secretary-Treasurer, and 4 ordinary members appointed by and from the Branch Council;
  - (ii) In the case of the Victoria No.3 Branch, the Branch Secretary, the 2 Branch Trustees and 2 ordinary members appointed by and from the committee of management.
  - (iii) In the case of the other Branches, the Branch Secretary, at least 1 Branch Trustee and at least 2 members of the Branch Committee appointed by and from the committee of management.
- (c) The National Finance Committee and each Branch Finance Committee:
  - (i) Shall be chaired by a person appointed by the National Executive or Branch committee of management to fill that role. In his or her absence at a meeting, the remaining members present shall elect one of their number present to chair the meeting.
  - (ii) Shall have a quorum of sixty per cent of the members of the Committee.
  - (iii) Shall meet at least as regularly as is determined by National Executive or Branch committee of management. The person appointed chair of the Committee may call a meeting more regularly if he or she considers it appropriate. The National Finance Committee shall meet at least once every two months. Branch Finance Committees shall meet at least quarterly.
  - (iv) In accordance with a decision of the chair of the Committee, the Committee may meet in person, by way of telephone conference, or by any other electronic means.
- (d) The functions of the Finance Committee are:
  - (i) Develop the annual budget to be adopted by the National Executive or the Branch Committee of Management.
  - (ii) Monitor and report to National Executive (in the case of the National Finance Committee) and to Branch committee of management (in the case of the Branch Finance Committee) on the financial performance of the Union or Branch against the budget.
  - (iii) Ensure there are adequate internal control systems in place and functioning to promote operational efficiency, minimise financial risk and fraud, and to ensure financial accountability.
  - (iv) Examine and monitor expenditure to ensure that expenditure is consistent with achieving the objects and complies with policy and procedures.



- (v) Examine and monitor all credit card expenditure by employees and officers to ensure compliance with applicable policy and procedures.
  - (vi) Ensure that the applicable Financial Management Policy and Procedures are complied with at all times.
  - (vii) Ensure that the rules concerning the finances and financial management are complied with at all times.
  - (viii) Monitor and ensure that the Union or Branch is complying with all statutory obligations regarding financial management and reporting requirements.
- (e) The Finance Committee also has the following functions in relation to auditing:
- (i) Make recommendations regarding the appointment of the Auditor to the National Executive or Branch Committee of Management.
  - (ii) In conjunction with the National or Branch Auditor, make recommendations to the National Executive or Branch committee of management about changes to the Union's or Branch's systems of internal control and systems to identify, monitor and mitigate significant financial risk.
  - (iii) In conjunction with the National or Branch Auditor, ensure that the Union's or Branch's annual financial statements are fairly represented in all material respects in accordance with Australian accounting principles and Standards.
  - (iv) Ensure that any matter that the National or Branch Auditor wishes to bring to the attention of the National Executive or Branch committee of management has been given adequate attention.
- (f) The National Finance Committee shall report to each meeting of National Executive about the matters referred to in sub-rules (d) and (e).
- (g) The Branch Finance Committee shall report to each meeting of Branch Committee of Management about the matters referred to in sub-rules (d) and (e).
- (h) If there is a matter that is so important, or so urgent, that it requires more immediate attention or direction from the National Executive or Branch Committee of Management, and two or more members of the Finance Committee so resolve:
- (i). A report about the matter shall be sent by the chair of the Finance Committee to each member of the National Executive or the Branch Committee of Management;
  - (ii). The National President, or President of the Branch, shall determine if a National Executive or Branch Committee of Management meeting should be called to deal with the matter.
- (i) National Executive and each Branch Committee of Management may authorise the Finance Committee to approve expenditure of the funds of the Union or the Branch, as the case may be, on ordinary or extraordinary operating expenditure up to an amount specified.
- (j) The powers and functions conferred by this rule on the National Executive are only exercisable in relation to the National Finance Committee and the powers and functions conferred by this rule on a Branch Committee of Management are only exercisable in relation to that Branch's Finance Committee.

**INSERT NEW RULE 76 AS FOLLOWS:**



## 76 - THE FUNDS AND PROPERTY OF THE UNION

- (a) Subject to sub-rule (e), the National Executive:
  - (i) has control of all of the funds and property of the Union;
  - (ii) may determine all matters associated with the property of the Union, including the acquisition, disposal, transfer, use and control of the property; and
  - (iii) may determine all matters associated with the investment of the funds of the Union, including the acquisition, disposal, transfer, use and control of the investments.
- (b) Subject to sub-rule (e), the National Secretary is authorised to expend the funds of the Union on normal operating expenditure, subject to the limitations contained in the policies and procedures referred to in sub-rule (d).
- (c) Subject to sub-rule (e), the National Finance Committee is authorised to expend the funds of the Union on ordinary and extraordinary operating expenditure, subject to the limitations contained in the policies and procedures referred to in sub-rule (d).
- (d) Without limiting sub-rule (a), the National Executive shall adopt and implement policies and procedures, consistent with the principles of good governance and the Union's statutory obligations, governing all matters associated with the control of the funds, investments and property including, but not limited to:
  - (i) The opening, closure and operation of accounts with financial institutions.
  - (ii) The procedures followed when making financial transactions.
  - (iii) The establishment of an annual budget.
  - (iv) The keeping of financial records.
  - (v) The production, content, timing and distribution of financial reports.
  - (vi) The auditing of the Union's finances.
  - (vii) The documentation, reporting and accounting of transactions and expenditure.
  - (viii) What is defined as normal and extraordinary operating expenditure for the purposes of these rules.
  - (ix) The limits to the amounts the National Secretary and National Finance Committee are authorised to expend.
  - (x) The conferral of authority to expend the funds of the Union.
  - (xi) The expenditure on which the funds of the Union cannot be expended without specific authorisation of the National Executive.
  - (xii) The procedure that must be followed in expending the funds of the Union.
  - (xiii) The issuing, use of, and accountability for credit cards.
  - (xiv) All aspects related to the use of credit cards and accounting for that expenditure.
  - (xv) The procedure that must be followed in purchasing goods or services using the funds of the Union.

- (xvi) Hospitality and gifts.
- (xvii) The employment and remuneration of officers and staff.
- (xviii) The disclosure and management of conflicts of interest.
- (e) National Council may make directions, which National Executive, the National Finance Committee, and National Officers must comply with, concerning the matters referred to in sub-rules (a)-(d).
- (f) Policies and procedures adopted under sub-rule (d) must be identified in the resolutions of the National Executive as rule 76 policies and procedures. Once adopted rule 76 policies and procedures shall be binding on all officers and members of the Union.
- (g) Rule 76 policies and procedures must be published on the website conducted by the Union within fourteen days of their adoption.

**INSERT NEW RULE 77 AS FOLLOWS:**

**77 - LOANS, GRANTS AND DONATIONS**

- (a) Notwithstanding anything elsewhere contained in these rules, the Union shall not make any loan, grant or donation of any amount exceeding \$1,000 unless the National Council or the National Executive of the Union has approved the making of the loan, grant or donation and has satisfied itself:
  - (i) That the making of the loan, grant or donation would be in accordance with the other rules of the Union, and,
  - (ii) In relation to a loan, that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory.
- (b) Sub-rule (a) shall not apply to or in relation to payments made by the Union by way of provision for, or reimbursement of, out of pocket expenses incurred by persons for the benefit of the Union. Nor do the provisions of sub-rule (a) apply to a transfer of funds to a Branch referred to in sub-rule 79(c).

**INSERT NEW RULE 78 AS FOLLOWS:**

**78 - CAPITATION FEES**

- (a) Each Branch shall pay annually to the Union capitation fees (which includes the Branch's proportion of the Union's affiliation fee to the ACTU) being such amount per financial member as decided from time to time by two-thirds vote of National Council ('Branch capitation fees').
- (b) Branch capitation fees shall apply equally to Branches.
- (c) Branch capitation fees shall be calculated and payable on the basis of the number of financial members of the Union attached to that Branch as at the 30th June in the appropriate year certified as correct by the Branch Secretary.
- (d) Branch capitation fees shall be due and payable:
  - (i) when paid annually, by the 31st August next following, or

- (ii) if a Branch chooses to its Branch capitation fees on a quarterly basis, by 14 July, 14 October, 14 January and 14 April next following; or
- (iii) if the Branch chooses to pay monthly by the 14th of each month.

**INSERT NEW RULE 79 AS FOLLOWS:**

**79 - BRANCH LIABILITIES**

- (a) Branch's liabilities means:
  - (i) the liability of the Union to a third person for an amount resulting from the conduct of a Branch or officers, employees or agents of the Branch, whether that conduct is engaged in separately or jointly with any other and whether that conduct has, directly or indirectly, resulted in the liability;
  - (ii) an unpaid debt due for repayment as defined in sub-rule (c).
- (b) Without limiting the foregoing, the Branch's liabilities referred to in sub-rule 79(a)(i) includes:
  - (i) Liability for the remuneration of officers and others engaged to perform work for the Branch.
  - (ii) Liability to pay payroll tax, similar types of tax, workers' compensation, superannuation and other types of contributions in respect to those engaged in the Branch.
  - (iii) Liability to pay stamp duty and other similar types of tax in respect to the transfer, howsoever described, of property used by or enjoyed by the Branch or its officers.
  - (iv) Liability to pay mortgage repayments and other similar types of payment in respect to property used by or enjoyed by the Branch or its officers.
  - (v) Liability to pay debts on any loans whose funds have been applied principally for the benefit of the Branch.
  - (vi) Liability to pay damages or penalties for conduct of the Branch or conduct of its officers, employees or agents.
- (c) An unpaid debt is due for repayment when:
  - (i) The Union effects a transfer of funds from the funds of the Union to the funds of a Branch ('a loan') on agreed terms requiring the repayment of an amount, and part or all of the repayment amount is due for repayment under the agreed terms, and the Branch has not repaid to the Union the amount due and payable from the Branch's funds and property;
  - (ii) The Union agrees to provide a service of any nature to a Branch, directly or indirectly, on the terms that the Branch pay an amount to the Union in relation to the service and part or all of the payment is due under the agreed terms, and the Branch has not repaid to the Union the amount due and payable from the Branch's funds and property; or
  - (iii) The Union, with the agreement of the Branches concerned, has made a payment in relation to group activities of two or more Branches (or the activities of the officers or members of two or more Branches), and National Executive has determined an amount to be reimbursed by the Branch referable to those activities, and the Branch has not reimbursed the Union for the amount determined by National Executive.

**INSERT NEW RULE 80 AS FOLLOWS:**

**80 - CONSEQUENCES OF NOT PAYING CAPITATION FEES OR MEETING BRANCH LIABILITIES**

- (a) Where a Branch owes money to the Union:
  - (i) The Branch delegates to National Council from that Branch shall not, unless the National Council otherwise decides, be entitled to any participate in any meeting of National Council until such payment is made in full.
  - (ii) The Branch Secretary shall not, unless the National Executive otherwise decides, be entitled to participate in any meeting of the National Executive until such payment is made in full.
- (b) The Branch only owes money to the Union for the purposes of sub-rule (a) when:
  - (i) The Branch has failed to pay Branch capitation fees that are due and payable under rule 78;
  - (ii) The Union has paid a Branch liability as defined in rule 79(a)(i) of more than \$5,000; or
  - (iii) The Branch owes and unpaid debt due for repayment as defined in sub-rule 79(a)(ii) of more than \$5,000.
- (c) In relation to a Branch liability as defined in rule 79, the National Executive may direct and require the Branch by its officers to:
  - (i) In the case of a Branch liability referred to in sub-rule 79(a)(i), to pay the Branch liability;
  - (ii) In the case of a Branch liability referred to in sub-rule 79(a)(ii), to repay the loan, pay the amount due or pay the amount determined by National Executive as the case may be; and
  - (iii) If the Union has paid all or part of the Branch liability referred to in 79(a)(i) from the funds of the Union, to reimburse the Union the amount paid by the Union.
- (d) Where the National Executive has made a direction under sub-rule (a) then the Branch, and each of its officers, has an obligation to take all necessary steps to comply with the direction, including giving any necessary authorities and executing any documents reasonably necessary to comply with the direction.
- (e) In the case of a Branch liability referred to in sub-rule 79(c)(iii), to enable the Union and its Branches to minimise its and their liabilities and meet its and their statutory obligations, the Branch, and each of its officers, also have obligations:
  - (i) To promptly provide information reasonably requested of it;
  - (ii) To co-operate with the Union and other Branches; and
  - (iii) In the event that any additional liability is incurred by the Union due to the failure by a Branch to provide accurate information within timeframes required, that additional liability will be treated as a loan by the Union as defined in sub-rule 78(c) repayable immediately.
- (f) In the case of a Branch liability referred to in sub-rule 79(a)(i), if the Branch contends that the Union is not liable to a third person, then:
  - (i) The Branch shall pay from the funds of the Branch all of the legal costs incurred associated with that contention; and

- (ii) If there are any legal costs incurred by the Union associated with that contention, then the payment of those costs from the funds of the Union shall be treated as a loan as defined in sub-rule 78(c) by the Union to the Branch repayable within 30 days from the receipt by the Union of an invoice, or similar requirement, for the payment of those costs; and
- (iii) So long as the obligations referred to in sub-rule 80(e)(i) and (ii) are complied with, the Union is not to pay the liability unless it has received advice that there is no reasonable defensible contention that the liability is not payable.

**INSERT NEW RULE 81 AS FOLLOWS:**

**81 - FARES AND EXPENSES**

- (a) National Executive shall determine from time to time the fares and expenses to be paid to or on behalf of members of the National Executive when attending National Executive meetings or when attending to the business of the Union.
- (b) In the case of Branch delegates to National Council, unless otherwise determined by National Executive or National Council, such fares and expenses shall be paid by the Branch concerned and in the case of National Executive members such fares and expenses shall be paid out of the funds of the Union.

**INSERT NEW RULE 82 AS FOLLOWS:**

**82 - NATIONAL AUDITOR**

- (a) The National Auditor shall be appointed annually by the National Executive.
- (b) The National Auditor shall be a person qualified under any governing statute to hold that appointment.
- (c) The National Auditor shall perform such functions and duties as are prescribed by under any governing statute and such other functions and duties, not inconsistent with any governing statute, as are required by the National Council or the National Executive.
- (d) The National Auditor shall for the purpose of performing his or her functions and duties:
  - (i) have access to and be entitled to examine all documents of the Union in the custody, control or power of the Union or any of its Branches;
  - (ii) be empowered to question any Officer or employee of the Union or any Branch of the Union about such documents and any other matter related to the performance of the National Auditor's functions and duties;
  - (iii) to obtain from any bank or other institution at which the funds of the Union or any Branch thereof are deposited or invested such information as he or she may require.
- (e) The National Auditor shall have power to:
  - (i) Make recommendations to National Executive about the financial affairs of the Union or its Branches;
  - (ii) Make recommendations to National Finance Committee about the financial affairs of the Union or its Branches;

- (iii) Make recommendations to a Branch committee of management about the financial affairs of that Branch.
- (iv) Work in conjunction with the National Finance Committee to enable that committee to perform its functions and duties referred to in sub-rule 75(e);
- (v) Attend any National Finance Committee meeting and raise any matter concerning the financial affairs of the Union.

**INSERT NEW RULE 83 AS FOLLOWS:**

**83 - FINANCIAL REPORTING REQUIREMENTS**

- (a) The Union shall prepare such financial reports as are required to be prepared by any governing law ('the financial reports').
- (b) The Union shall provide within any timeframe established by any governing statute:
  - (i) A copy of the full financial reports free of charge to the members of the Union, unless the National Executive resolves that a concise report is to be provided to members of the Union; and
  - (ii) A copy of the full financial reports free of charge to any member that requests such a copy.
- (c) A copy of the full or concise reports referred to in (b) may be provided by publication in the Union's Journals, by correspondence, email, by posting on the Union's website or by some other method where all Union members have reasonable access to and are able to view the report.
- (d) The purpose of this sub-rule is to provide for a general meeting of members referred to in s 266(3) of the Fair Work (Registered Organisations) Act 2009. Members of the Union may requisition a general meeting of the Union for the purpose of considering the auditor's report, the general purpose financial report and the operating report. The meeting shall only be called if 5% or more of the members requisition the meeting. The requisition shall be in writing and signed by those members. If the National Secretary receives such a requisition, he or she shall:
  - (i) Call a general meeting of members, giving not less than 21 days' notice.
  - (ii) Determine the time and place at which the meeting shall be held.
  - (iii) Shall ensure that facilities are provided to enable members in each State and Territory to participate at the meeting. This includes telephone or video conferencing or other electronic means of attending at and participating in the meeting.
  - (iv) Direct the Branch Secretaries to give at least 14 days' notice of the meeting to members of their respective Branches, including notice of the purpose of the meeting and how members may attend at and participate in the meeting by telephone or video conferencing or other electronic means.
  - (v) Shall ensure that members are given such documents as are required by law to be provided within any timeframe established by any governing law.

**INSERT NEW RULE 84 AS FOLLOWS:**

## 84 - ACCESS TO FINANCIAL RECORDS

- (a) The Union must provide access to the Union's financial records in accordance with its statutory obligations.
- (b) A member of the National Executive has a right of access to the financial records of the Union at all reasonable times. For the purposes of this rule, the financial records of the Union are those records that are required to be kept and maintained by any governing statute.
- (c) Any member of the National Executive shall, on giving three days' notice to the National Secretary, be entitled within the ordinary office hours of the Union to inspect the books and documents of the Union.
- (d) In relation to any information provided under this rule, the member of National Executive:
  - (i) Must not make improper use of the information in order to gain a personal advantage or an advantage for any person other than the Union.
  - (ii) Must not make improper use his or her position in order to gain a personal advantage or an advantage for any person other than the Union.
  - (iii) Must not improperly exercise his or her powers for a purpose other than to serve the interests of the Union in order to gain a personal advantage, or an advantage for any person other than the Union; and
  - (iv) Must act in good faith in what he or she believes to be the best interests of the Union.

## **RENUMBER RULE 83 AS RULE 85 AND AMEND AS FOLLOWS:**

### **83 85 - DISCLOSURE OF REMUNERATION AND NON-CASH BENEFITS BY OFFICERS**

- (a) The obligations in this rule apply to:
  - (i) The Union and each officer of the Union; and
  - (ii) Each Branch and each officer of the Branch.
- (b) Each officer of the Union shall disclose to the National Executive any remuneration paid to the officer:
  - (i) because the officer is a member of, or holds a position with, a board if:
    - (A) the officer is a member of, or holds such a position with, the board only because the officer is an officer of the Union; or
    - (B) the officer was nominated, proposed, recommended or suggested for the membership of, or position with, the board by the Union, a Branch or a peak council; or
  - (ii) by any related party of the Union, in connection with the performance of the officer's duties as an officer.
- (c) Each person holding an office in a Branch shall disclose to the committee of management any remuneration paid to the officer:

- (i) because the officer is a member of, or holds a position with, a board if:
    - (A) the officer is a member of, or holds such a position with, the board only because the officer is an officer of the Branch; or
    - (B) the officer was nominated, proposed, recommended or suggested for the position by the Union, a Branch or a peak council; or
  - (ii) by any related party of the Branch, in connection with the performance of the officer's duties as an officer.
- (d) The disclosures required by sub-rule ~~83~~ 85(b) shall be made to the National Executive:
- (i) as soon as practicable after the remuneration is paid to the officer;
  - (ii) in writing;
  - (iii) shall identify in relation to each membership of or position held on a board:
    - (A) the amount of the remuneration; and
    - (B) the name of the board and position held.
- (e) The disclosures required by sub-rule ~~83~~ 85(c) shall be made to the committee of management:
- (i) as soon as practicable after the remuneration is paid to the officer;
  - (ii) in writing; and
  - (iii) shall identify in relation to each membership of or position held on a board:
    - (A) the amount of the remuneration; and
    - (B) the name of the board and position held.
- (f) For the purposes of this rule, remuneration paid to an officer of the Union or a Branch includes remuneration paid:
- (i) to an entity controlled by the officer or by a relative of the officer;
  - (ii) to a third person (other than the Union or Branch), including a relative of the officer, at the direction of, or by virtue of a mandate of, the officer;
- because the officer is a member of, or holds a position with, a board.
- (g) Where an obligation to make a disclosure arises under sub-rules ~~83~~ 85(b) or (c) in relation to remuneration paid, then:
- (i) the officer of the Union or Branch be liable to account to the Union for the remuneration;
  - (ii) the officer of the Union or Branch shall, within 6 months of the receipt of the remuneration, pay to the Union or Branch the full amount of the remuneration, provided that if the officer has incurred a tax liability as the result of the payment of the remuneration, then the officer does not need to remit or account for the amount of remuneration necessary to meet that tax liability. The obligations in rule ~~83~~ 85(g) may be satisfied by a payment of the remuneration by the officer to the Union, or to the Branch of the Union of which the officer is a member, or to a state registered Union associated with that Branch.



- (h) For the purpose of ensuring compliance with the rules:
  - (i) The National Executive may:
    - (A) at any time direct an officer of the Union to make a written disclosure required by sub-rule ~~83~~ 85(b);
    - (B) at any time direct a paid officer of the Union to make a written disclosure of the name of the board and position held by an officer, even if the conditions referred to in sub-rules ~~83~~ 85(b)(i) are not satisfied;
  - (ii) A Branch committee of management may:
    - (A) at any time direct an officer of the Branch to make a written disclosure required by sub-rule ~~83~~ 85(c);
    - (B) at any time direct a paid officer of the Branch to make a written disclosure of the name of the board and position held by an officer, even if the conditions referred to in rules ~~83~~ 85(c)(i) are not satisfied.
  - (iii) The Branch Secretary is responsible for keeping a record of the disclosures required by sub-rule ~~83~~ 85(c);
  - (iv) The Branch Secretary shall, within a month of receiving the disclosure, forward a copy of the disclosure to the National Secretary;
  - (v) The National Secretary is responsible for keeping a record of the disclosures required by sub-rule ~~83~~ 85(b) and the records forwarded under this sub-rule.
  - (vi) A breach of the obligations referred to in rules ~~83~~ 85(b), (c), (g), (h)(i) and (ii) shall be, for the purposes of these rules, a substantial breach of the rules.

**RENUMBER RULE 84 AS RULE 86 AND AMEND AS FOLLOWS:**

**~~84~~ 86 - DISCLOSURE OF REMUNERATION PAID TO THE HIGHEST PAID OFFICERS**

- (a) The National Executive shall disclose to the members of the Union and its Branches:
  - (i) the identity of each officer of the Union who receives relevant remuneration during the disclosure period, and
  - (ii) all disclosures made by officers of the Union pursuant to sub-rule ~~83~~ 85(b); and
  - (iii) for each officer of the Union:
    - (A) the actual amount of the each officer's relevant remuneration for the disclosure period, including any amounts the subject of the disclosure referred to in sub-rule ~~83~~ 85(d); and
    - (B) the value of, and the form of each officer's relevant non cash benefits for the disclosure period.
- (b) For the purposes of sub-rule (a), the disclosure shall be made:
  - (i) in relation to each financial year;
  - (ii) within 6 months after the end of the financial year;
  - (iii) in writing and shall be published on the Union's website;

- (iv) in the general purpose financial report referred to in section 253 of the Act.
- (c) The committee of management shall disclose to the members of the Branch:
  - (i) the identity each officer of the Branch who receives relevant remuneration during the disclosure period, and
  - (ii) all disclosures made by officers of the Branch pursuant to sub-rule ~~83~~ 85(c); and
  - (iii) for each officer of the Branch:
    - (A) the actual amount of each officer's relevant remuneration for the disclosure period, including any amounts the subject of the disclosure referred to in sub-rule ~~83~~ 85(e); and
    - (B) the value of, and the form of each officer's relevant non cash benefits for the disclosure period.
- (d) For the purposes of sub-rule ~~84~~ 86(c), the disclosure shall be made:
  - (i) in relation to each financial year;
  - (ii) within 6 months after the end of the financial year;
  - (iii) if the Branch conducts a website, on the Branch's website;
  - (iv) if the Branch does not conduct a website, in writing in a newsletter, email, magazine or some other form of written communication distributed to the Branch's members; and
  - (v) in the general purpose financial report of the Branch.
- (e) For the purpose of ensuring compliance with the rules:
  - (i) The Branch Secretary is responsible for ensuring the disclosure is made in accordance with sub-rule ~~84~~ 86(d);
  - (ii) The Branch Secretary shall, within 3 months after the disclosure forward a copy of the disclosure to the National Secretary;
  - (iii) The National Secretary is responsible for ensuring the disclosure is made in accordance with sub-rule ~~84~~ 86(b) and keeping the records forwarded under this sub-rule.

**RENUMBER RULE 85 AS RULE 87 AND AMEND AS FOLLOWS:**

**85 87 - DISCLOSURE OF MATERIAL PERSONAL INTERESTS**

- (a) Each officer of the Union shall disclose to the National Executive any material personal interest in a matter that:
  - (i) the officer has or acquires; or
  - (ii) a relative of the officer has or acquires;that relates to the affairs of the Union, including a matter that relates to the affairs of any Branch of the Union.

- (b) The disclosure required by sub-rule ~~85~~ 87(a) shall be made to the National Executive:
  - (i) as soon as practicable after the interest is known or acquired; and
  - (ii) in writing.
- (c) The National Executive shall disclose to the members of the Union and its Branches the interests disclosed pursuant to sub-rule ~~85~~ 87(a).
- (d) For the purposes of sub-rule ~~85~~ 87(c), the disclosures shall be made:
  - (i) in relation to each financial year;
  - (ii) within 6 months after the end of the financial year;
  - (iii) in writing and shall be published on the Union's website; and
  - (iv) in the general purpose financial report referred to in section 253 of the Act.
- (e) Each officer of a Branch shall disclose to the committee of management any material personal interest in a matter that:
  - (i) the officer has or acquires; or
  - (ii) a relative of the officer has or acquires;that relates to the affairs of the Branch, including a matter that relates to the affairs of any other Branch or of the Union.
- (f) The disclosure required by sub-rule ~~85~~ 87(e) shall be made to the committee of management:
  - (i) as soon as practicable after the interest is known or acquired; and
  - (ii) in writing.
- (g) The committee of management shall disclose to the members of the Branch the interests disclosed pursuant to sub-rule ~~85~~ 87(e).
- (h) For the purposes of sub-rule ~~85~~ 87(g), the disclosures shall be made:
  - (i) in relation to each financial year;
  - (ii) within 6 months after the end of the financial year;
  - (iii) if the Branch conducts a website, on the Branch's website;
  - (iv) if the Branch does not conduct a website, in writing in a newsletter, email, magazine or some other form of written communication distributed to the Branch's members; and
  - (v) in the general purpose financial report of the Branch.
- (i) For the purpose of ensuring compliance with the rules:
  - (i) The National Executive may at any time direct an officer of the Union to make a written disclosure required by sub-rule ~~85~~ 87(a).
  - (ii) A Branch committee of management may at any time direct an officer of the Branch to make a written disclosure required by sub-rule ~~85~~ 87(e).

- (iii) The Branch Secretary is responsible for ensuring the disclosure is made in accordance with sub-rule ~~85~~ 87(h);
- (iv) The Branch Secretary shall, within three months after the disclosure forward a copy of any disclosure to the National Secretary;
- (v) The National Secretary is responsible for ensuring the disclosure is made in accordance with sub-rule ~~85~~ 87(d) and keeping the disclosures forwarded under this sub-rule.
- (vi) A breach of the obligations referred to in rules ~~85~~ 87(a), (e), (i)(i) and (ii) shall be, for the purposes of these rules, a substantial breach of the rules.

**RENUMBER RULE 86 AS RULE 88 AND AMEND AS FOLLOWS:**

**~~86~~ 88 - DISCLOSURE OF PAYMENTS**

- (a) The Union shall disclose to the members of the Union and its Branches
  - (i) each payment made by the Union, during the disclosure period:
    - (A) to a related party of the Union;
    - (B) to a related party of the Branch of the Union;
    - (C) to a declared person or body of the Union; and
  - (ii) the total of the payments made by the Union, during the disclosure period:
    - (A) to each related party of the Union;
    - (B) to each related party of a Branch of the Union; and
    - (C) to each declared person or body of the Union.
- (b) Sub-rule ~~86~~ 88(a) does not apply to a payment made to a related party if the payment consists of amounts deducted by the Union from remuneration payable to officers or employees of the Union.
- (c) For the purposes of sub-rule ~~86~~ 88(a), the disclosures shall be made:
  - (i) in relation to each financial year;
  - (ii) within 6 months after the end of the financial year;
  - (iii) in writing and published on the Union's website; and
  - (iv) in the general purpose financial report referred to in section 253 of the Act.
- (d) Each Branch shall disclose to the members of the Branch:
  - (i) each payment made by the Branch, during the disclosure period:
    - (A) to a related party of the Branch; or
    - (B) to a declared person or body of the Branch; and
  - (ii) the total of the payments made by the Branch, during the disclosure period:

- (A) to each related party of the Branch; or
  - (B) to each declared person or body of the Branch.
- (e) Sub-rule ~~86~~ 88(d) does not apply to a payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch.
- (f) For the purposes of sub-rule ~~86~~ 88(d), the disclosures shall be made:
- (i) in relation to each financial year;
  - (ii) within 6 months after the end of the financial year;
  - (iii) if the Branch conducts a website, on the Branch's website;
  - (iv) if the Branch does not conduct a website, in writing in a newsletter, email, magazine or some other form of written communication distributed to the Branch's members; and
  - (v) in the general purpose financial report of the Branch.

**RENUMBER RULE 87 AS RULE 89 AND AMEND AS FOLLOWS:**

**87 89 – BRANCH FINANCIAL POLICIES AND PROCEDURES**

- (a) This rule applies to each Branch of the Union, other than the New South Wales Branch, the Victoria No.1 Branch and the Victoria No.3 Branch.
- (b) ~~The Union and~~ Each Branch shall develop and implement internal control policies and procedures relating to the expenditure of the ~~Union and the~~ Branch and to ensure that ~~Union and~~ the Branch is conducted in accordance with the principles of good governance and to ensure accountability to members of the ~~Union and the~~ Branch.
- (c) The policies and procedures referred to in sub-rule ~~87~~ 89(b) shall be adopted by ~~the National Executive for the Union and~~ the Branch committee of management for each Branch and once adopted shall be binding on all officers and members of ~~the Union and~~ the Branch. Such policies and procedures must be identified in the resolutions of the ~~National Executive and~~ Branch committee of management as rule 89 ~~Union or~~ Branch policies and procedures.
- (d) Rule ~~87 89~~ ~~Union or~~ Branch policies and procedures must be published on any website conducted by ~~Union and/or~~ the relevant Branch within fourteen days of their adoption.

**RENUMBER RULE 88 AS RULE 90 AND AMEND AS FOLLOWS:**

**88 90 - BRANCH POLICIES AND PROCEDURES: NSW, VICTORIAN NO.1 AND NO.3 BRANCHES**

- (a) Each Branch shall develop and implement internal control policies and procedures relating to the expenditure of the Branch and to ensure that the Branch is conducted in accordance with the principles of good governance and to ensure accountability to members of the Branch. Each Branch shall also develop and implement policies and procedures to ensure that the Branch is representative of and accountable to its members, will be able to operate effectively, will encourage members to participate in the affairs of their Branch and to encourage the democratic functioning and control of the Branch.

- (b) Such policies and procedures shall be adopted by the Branch Committee (or in the case of the New South Wales Branch, the Branch Council) and once adopted shall be binding on all officers and members of the Branch. Such policies and procedures must be identified in the resolutions of the Branch Committee (or in the case of the New South Wales Branch, the Branch Council) as Rule ~~88~~ 90 Branch policies and procedures.
- (c) Rule ~~88~~ 90 Branch policies and procedures must be published on the website of the Branch within fourteen days of their adoption.
- (d) Rule ~~88~~ 90 Branch policies and procedures once adopted may only be altered, amended, or revoked by a resolution duly passed by not less than 70% of all members of the Branch Committee (or in the case of New South Wales Branch, the Branch Council). Provided that where the Branch Committee (or in the case of New South Wales Branch, the Branch Council) so alters, amends or revokes the Rule ~~88~~ 90 Branch policies and procedures, such alteration, amendment or revocation may be rescinded by a plebiscite of the Branch in accordance with Rule ~~70~~ 60.
- (e) Notwithstanding anything appearing elsewhere in these Rules, this Rule may only be altered, amended or revoked by a resolution passed by not less than 70% of all members of Branch Committee (or in the case of New South Wales Branch, the Branch Council). Provided that where the Branch Committee (or in the case of New South Wales Branch, the Branch Council) so alters, amends or revokes this Rule, such alteration, amendment or revocation may be rescinded by a plebiscite of the Branch in accordance with Rule ~~70~~ 60. Nothing in this sub-rule operates to limit the operation generally of Rule ~~70~~ 60.

**RENUMBER RULE 89 AS RULE 91 AND AMEND AS FOLLOWS:**

**~~89~~ 91 - TRAINING OF OFFICERS**

- (a) Each person who is an officer of the Union and each officer of a Branch whose duties include duties that relate to the financial management of the Union or the Branch shall undertake training:
  - (i) approved by the General Manager under the provisions of the *Fair Work (Registered Organisations) Act 2009*; and
  - (ii) that covers each of the officer's financial duties.
- (b) An officer shall complete the training required by sub-rule ~~89~~ 91(a) within:
  - (i) 6 months after the person begins to hold office; or
  - (ii) if the officer holds office at the date of the Proclamation of the Act within 6 months of that date.

**DELETE RULE 90 – FINANCE COMMITTEE**

**~~90 – FINANCE COMMITTEE~~**

- ~~(a) Each Branch shall have a Finance Committee (however named) comprising:~~
  - ~~(i) In the case of the New South Wales Branch, the Branch Assistant Secretary Treasurer, and 4 ordinary members appointed by and from the Branch Council~~
  - ~~(ii) In the case of the Victoria No.1 Branch, the Branch Assistant Secretary Treasurer, and 4 ordinary members appointed by and from the committee of management;~~

- ~~(iii) — In the case of the Victoria No.3 Branch, the Branch Secretary, the 2 Branch Trustees and 2 ordinary members appointed by and from the committee of management.~~
- ~~(iv) — In the case of the other Branches, the Branch Secretary, at least 1 Branch Trustee and at least 2 members of the Branch Committee appointed by and from the committee of management.~~
- ~~(b) — The Finance Committee shall prepare budget, closely examine financial statements on a regular basis and monitor and protect the funds and property of the branch.~~
- ~~(c) — The Finance Committee shall meet at least quarterly and provide written reports of its activities to the Branch Committee.~~

**RENAME PART F – SPECIAL BRANCH RULE –VICTORIA NO.1 BRANCH TO PART F – SPECIAL BRANCH AND TRANSITIONAL RULES**

**PART F - SPECIAL BRANCH AND TRANSITIONAL RULES –~~VICTORIA NO.1 BRANCH~~**

**RENUMBER RULE 91 AS RULE 92 AND AMEND AS FOLLOWS:**

**91 92 - TRANSITIONAL RULE – MEMBERSHIP**

- (a) On the date of the certification of this rule any person who is then life member of the HSU East Branch shall become a life member of the New South Wales Branch, the Victoria No.1 Branch or the Victoria No.3 Branch, whichever is applicable having regard to rule ~~48 38~~.
- (b) On the date of the certification of this rule, any period of membership and/or financial membership of the Union in the HSU East Branch in accordance with the Union’s rules prior to the date of certification shall be deemed to be for all purposes membership and/or financial membership of the Union in the New South Wales Branch, Victoria No.1 Branch or Victoria No.3 Branch, whichever is applicable having regard to rule ~~48 38~~. Any period of unfinancial membership in the HSU East Branch in accordance with the Union’s rules prior to the date of certification shall be deemed to be for all purposes a period of unfinancial membership in the New South Wales Branch, the Victoria No.1 Branch or the Victoria No.3 Branch, whichever is applicable having regard to rule ~~48 38~~.

**DELETE PART E – SPECIAL BRANCH RULES – NEW SOUTH WALES, VICTORIA NO.1 AND VICTORIA NO.3 BRANCHES**

**~~PART E – SPECIAL BRANCH RULES – NEW SOUTH WALES, VICTORIA NO.1 AND VICTORIA NO.3 BRANCHES~~**

**~~81 – APPLICATION OF THIS PART~~**

~~This Part shall apply to the New South Wales Branch, the Victoria No. 1 Branch and the Victoria No. 3.~~

**~~82 – DEFINITIONS~~**

- (a) ~~“board”~~ means ~~a group of persons who supervise a corporation, organisation, association or other like body including a Board of Directors~~
- (b) ~~“disclosure period”~~ means ~~the financial year of the Union as defined by Rule 36(f)~~
- (c) ~~“declared person or body”~~ means:

- (i) ~~an officer of the Branch who has disclosed a material personal interest under Rule 85(a) and (b); and~~
  - (ii) ~~the interest relates to, or is in, the person or body; and~~
  - (iii) ~~the officer has not notified the Branch that the officer no longer has the interest.~~
- (d) ~~“financial duties” includes duties that relate to the financial management of the Union or a Branch of the Union~~
- (e) ~~“financial year” means the financial year of the Union as defined by Rule 36(f)~~
- (f) ~~“General Manager” means the General Manager of Fair Work Australia.~~
- (g) ~~“non cash benefit” means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.~~
- (h) ~~“peak council” means a national or State council or federation that is effectively representative of a significant number of organisations (within the ordinary meaning of the term) representing employers or employees in a range of industries.~~
- (i) ~~“office” has the same meaning as defined by Section 9 of the *Fair Work (Registered Organisations) Act 2009*.~~
- (j) ~~“related party” has the same meaning as defined by Section 9B of the *Fair Work (Registered Organisations) Act 2009*.~~
- (k) ~~“relative” in relation to a person, means the spouse, parent or remoter lineal ancestor, child or remoter issue, or brother or sister of the person~~
- (l) ~~“relevant remuneration” in relation to an officer of the Branch for a disclosure period is the sum of the following:~~
- (i) ~~Any remuneration disclosed to the Branch by the officer under Rules 84(a) and (b) during the disclosure period;~~
  - (ii) ~~any remuneration paid during the disclosure period, to the officer of the Branch.~~
- (m) ~~“relevant non cash benefits” in relation to an officer of the Branch for a disclosure period means the non cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer’s duties as an officer, by the Branch or by a related party of the Branch~~

### **83—BRANCH POLICIES AND PROCEDURES**

- (a) ~~Each Branch shall develop and implement internal control policies and procedures relating to the expenditure of the Branch and to ensure that the Branch is conducted in accordance with the principles of good governance and to ensure accountability to members of the Branch. Each Branch shall also develop and implement policies and procedures to ensure that the Branch is representative of and accountable to its members, will be able to operate effectively, will encourage members to participate in the affairs of their Branch and to encourage the democratic functioning and control of the Branch.~~



- ~~(b) — Such policies and procedures shall be adopted by the Branch Committee (or in the case of the New South Wales Branch, the Branch Council) and once adopted shall be binding on all officers and members of the Branch. Such policies and procedures must be identified in the resolutions of the Branch Committee (or in the case of the New South Wales Branch, the Branch Council) as Rule 83 Branch policies and procedures.~~
- ~~(c) — Rule 83 Branch policies and procedures must be published on the website of the Branch within fourteen (14) days of their adoption.~~
- ~~(d) — Rule 83 Branch policies and procedures once adopted may only be altered, amended, or revoked by a resolution duly passed by not less than 70% of all members of the Branch Committee (or in the case of New South Wales Branch, the Branch Council). Provided that where the Branch Committee (or in the case of New South Wales Branch, the Branch Council) so alters, amends or revokes the Rule 83 Branch policies and procedures, such alteration, amendment or revocation may be rescinded by a plebiscite of the Branch in accordance with Rule 70.~~
- ~~(e) — Notwithstanding anything appearing elsewhere in these Rules, this Rule may only be altered, amended or revoked by a resolution passed by not less than 70% of all members of Branch Committee (or in the case of New South Wales Branch, the Branch Council). Provided that where the Branch Committee (or in the case of New South Wales Branch, the Branch Council) so alters, amends or revokes this Rule, such alteration, amendment or revocation may be rescinded by a plebiscite of the Branch in accordance with Rule 70. Nothing in this sub-rule operates to limit the operation generally of Rule 70.~~

#### ~~84 — DISCLOSURE BY BRANCH OFFICERS OF REMUNERATION AND NON CASH BENEFITS~~

- ~~(a) — Each person holding an office, in a Branch shall disclose to the Branch Committee any remuneration paid to the officer:
  - ~~(i) — because the officer is a member of, or holds a position with, a board or other organisation, if:
    - ~~(A) — the officer holds such a position with the board or other organisation only because the officer is an officer of the Branch; or~~
    - ~~(B) — the officer was nominated for the position by the Union, the Branch or a peak council; or~~~~
  - ~~(ii) — by any third party, in connection with the performance of the officers' duties as an officer.~~~~
- ~~(b) — The disclosure required by sub-rule (a) shall be made to the Branch Committee:
  - ~~(i) — as soon as practicable after the remuneration is paid to the officer; and~~
  - ~~(ii) — in writing.~~~~
- ~~(c) — A Branch Committee shall disclose to the members of the Branch:
  - ~~(i) — the identity of each officer of the Branch who receives remuneration from the Branch in connection with their holding of office during the disclosure period, and~~
  - ~~(ii) — all disclosures made by officers of the Branch pursuant to sub-rule (a); and~~
  - ~~(iii) — for those officers:~~~~

~~(A) — the actual amount of the officers' relevant remuneration for the disclosure period; and~~

~~(B) — the value of, and the form of the officers' relevant non-cash benefits for the disclosure period.~~

~~(d) — For the purposes of sub-rules (c), the disclosure shall be made:~~

~~(i) — in relation to each financial year;~~

~~(ii) — within three (3) months after the end of the financial year; and~~

~~(iii) — in writing and published on the Branch website.~~

## ~~85 — DISCLOSURE BY BRANCH OFFICERS OF PERSONAL INTEREST~~

~~(a) — Each person holding an office in a Branch shall disclose to the Branch Committee any material personal interest in a matter that:~~

~~— (i) — the officer has or acquires; or~~

~~— (ii) — a relative of the officer has or acquires;~~

~~that relates to the affairs of the Branch.~~

~~(b) — The disclosure required by sub-rule (a) shall be made to the Branch Committee:~~

~~(i) — as soon as practicable after the interest is known or acquired; and~~

~~(ii) — in writing.~~

~~(c) — A Branch Committee shall disclose to the members of the Branch the interests disclosed to the Branch pursuant to sub-rules (a).~~

~~(d) — For the purposes of sub-rule (c), the disclosures shall be made:~~

~~(i) — in relation to each financial year;~~

~~(ii) — within three (3) months after the end of the financial year; and~~

~~(iii) — in writing.~~

## ~~86 — DISCLOSURE BY BRANCH OF PAYMENTS~~

~~(a) — Each Branch shall disclose to the members of the Branch:~~

~~(i) — each payment made by the Branch, during the disclosure period:~~

~~(A) — to a related party of the Branch; or~~

~~(B) — to a declared person or body of the Branch.~~

~~(ii) — the total of the payments made by the Branch, during the disclosure period:~~

~~(A) — to each related party of the Branch; or~~

~~(B) — to each declared person or body of the Branch.~~

- ~~(b) — Sub rule (a) does not apply to a payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch.~~
- ~~(c) — For the purposes of sub rule (a), the disclosures shall be made:~~
- ~~(i) — in relation to each financial year;~~
  - ~~(ii) — within three (3) months after the end of the financial year; and~~
  - ~~(iii) — in writing and published on the Branch website.~~

#### ~~87 — TRAINING OF OFFICERS OF BRANCHES~~

- ~~(a) — This Rule shall take effect on the commencement of Schedule 1 Part 2 of the *Fair Work (Registered Organisations) Amendment Act 2012*.~~
- ~~(b) — Each person holding an office in a Branch whose duties include duties that relate to the financial management of the Branch shall undertake training:~~
- ~~(i) — approved by the General Manager under the provisions of the *Fair Work (Registered Organisations) Act 2009* or an Act replacing that Act; and~~
  - ~~(ii) — that covers each of the officers' financial duties.~~
- ~~(c) — An officer shall complete the training required by sub rule (b) within:~~
- ~~(i) — six (6) months after the person begins to hold office; or~~
  - ~~(ii) — if the officer holds office at the date of the Proclamation referred to in sub rule (a), within six (6) months of that date.~~

#### ~~88 — AUDIT AND COMPLIANCE COMMITTEE~~

- ~~(a) — Each Branch shall have an Audit and Compliance Committee comprising the Branch Assistant Secretary Treasurer (in the case of the New South Wales and Victoria No.1 Branches), Branch Secretary (in the case of the Victoria No.3 Branch), the two (2) Branch Trustees (in the case of the Victoria No.3 Branch) and two (2) ordinary members of the Branch Committee appointed by and from the Branch Committee. Provided that in the case of the New South Wales Branch there shall be four (4) ordinary members appointed by and from the Branch Council. Provided further that in the case of the Victoria No.1 Branch, there shall be four (4) ordinary members appointed by and from the Branch Committee.~~
- ~~(b) — The Audit and Compliance Committee shall prepare budget and cash forecasts, closely examine financial statements on a regular basis and monitor and protect the funds and property of the branch.~~
- ~~(c) — The Audit and Compliance Committee shall meet on a monthly basis and provide monthly written reports of its activities to the Branch Committee.~~

#### ~~89 — TRANSITIONAL RULE — MEMBERSHIP~~

- ~~(a) — On the date of the certification of this Rule any person who is then life member of the HSU East Branch shall become a life member of the New South Wales Branch, the Victoria No.1 Branch or the Victoria No.3 Branch, whichever is applicable having regard to Rule 48.~~

~~(b) On the date of the certification of this Rule, any period of membership and/or financial membership of the Union in the HSU East Branch in accordance with the Union's Rules prior to the date of certification shall be deemed to be for all purposes membership and/or financial membership of the Union in the New South Wales Branch, Victoria No.1 Branch or Victoria No.3 Branch, whichever is applicable having regard to Rule 48. Any period of unfinancial membership in the HSU East Branch in accordance with the Union's Rules prior to the date of certification shall be deemed to be for all purposes a period of unfinancial membership in the New South Wales Branch, the Victoria No.1 Branch or the Victoria No.3 Branch, whichever is applicable having regard to Rule 48.~~

## **RENUMBER RULE 92 AS RULE 93 AND AMEND AS FOLLOWS:**

### **92 93 – VICTORIA NO. 1 BRANCH PROPERTY**

- (a) This rule prevails over any other rule to the extent of any inconsistency and may only be amended or rescinded by a resolution of the National Executive consenting to the amendment or rescission.
- (b) For the purposes of this rule:
  - (i) A reference to the Secured Property is a reference to the property known as 208-212 Park Street, South Melbourne, Victoria, or any new property acquired by the Union for the benefit of the Victoria No. 1 Branch;
  - (ii) The Secured Property forms part of the Branch Fund of the Victoria No. 1 Branch; and
  - (iii) A reference to financing documents is a reference to facility agreements, loan agreements, mortgages, guarantees, security and other documents relating to the financial accommodation provided by a lender and security for that financial accommodation.
- (c) This rule deals with any financing documents required to be entered into by the Union ~~the Commonwealth Bank~~ with any financial institution for the benefit of the Victoria No. 1 Branch as a consequence of the dissolution of the HSU East Branch or any replacement financing documents affecting the Secured Property which are entered into by the Union for the benefit of the Victoria No. 1 Branch.
- (d) To the extent that the Union is required to enter into financing documents, the Branch Committee shall ensure that all payments required to be made pursuant to any financing documents will be made as and when required and all other obligations required to be performed will be undertaken as and when required. Without limiting the generality of this obligation, the Branch Committee shall ensure that:
  - (i) all facilities provided by the lender are repaid in full on or before the due date as and when required under the financing documents;
  - (ii) if the financing documents include a guarantee and indemnity or other security provided in respect of facilities provided to the Health Services Union NSW, it pays any amounts that become payable to the lender under that guarantee and indemnity and security documents as and when demanded by the lender;
  - (iii) it does not take any action or fail to perform any act that will result in a breach under the financing documents or an event of default or potential event of default occurring under the financing documents;
  - (iv) at all times the Branch has the capacity to make the payments as and when required under the financing documents;

- (v) all information that is provided to a lender for the purpose of obtaining the financial accommodation referred to in the financing documents and during the term of the financing documents including any accounts and financial information is not incorrect or misleading;
  - (vi) there is no material adverse change in its assets or financial position from that disclosed in information provided to a lender for the purpose of obtaining the financial accommodation during the term of the financing documents;
  - (vii) all ongoing compliance and reporting obligations under the financing documents are met, including, but not limited to, maintaining proper accounts and providing such accounts, cash flow projections, reports and valuations as may be required by a lender and which comply with the accounting standards required by a lender;
  - (viii) all the requirements of a lender in relation to insurance over the Secured Property are complied with and ensure that the Union is the beneficiary of any insurance policy;
  - (ix) all obligations under financing documents in relation to the Secured Property are complied with;
  - (x) all monies required to be paid in connection with the Secured Property including rates and taxes are paid on the due date for payment;
  - (xi) the Secured Property is maintained in good condition and repair;
  - (xii) no leases, licences or other rights to use the Secured Property are granted without obtaining the prior approval of the National Executive and the lender;
  - (xiii) the prior consent of National Executive and the lender is obtained in respect of any dealings relating to the Secured Property;
  - (xiv) there is no subdivision or consolidation of any Secured Property without obtaining the prior approval of the National Executive and the lender;
  - (xv) there is no change to or steps taken to change the zoning of any Secured Property or change the use of the Secured Property or the nature of the business conducted on the Secured Property without obtaining the prior consent of the National Executive and the lender; and
  - (xvi) no variations to any leases or management agreements affecting the Secured Property are made which will materially affect the Secured Property and its value.
  - (xvii) Where in this ~~sub-rule~~ sub-rule the consent of the National Executive is required, the National Executive will not unreasonably withhold that consent.
- (e) The Branch Committee will ensure that the National Secretary is provided with:
- (i) details of any proposed communication or information to be provided to a lender prior to it being provided to a lender which communication or information must be approved by the National Secretary prior to it being submitted to a lender;
  - (ii) copies of all accounts, reports, valuations, cash flow projections and any other financial information that is provided to a lender;
  - (iii) evidence of insurance in relation to the Secured Property and that all premiums in relation to the insurance have been paid;
  - (iv) evidence that all monies in connection with the Secured Property have been paid on time including rates and taxes;

- (v) immediate notification of any event, action or circumstance that may result in a breach of the financing documents or an event of default or potential event of default under the financing documents; and
- (vi) any other notification, information or documents received from a lender in relation to the financial accommodation provided by a lender and the financing documents.
- (f) The Branch Committee will ensure that the National Secretary is provided with a monthly statement showing that the Branch has met its obligation to pay instalments of principal with interest, line fees, and any other amounts due to be paid each month under the financing documents and any further information requested by the National Secretary or the National Executive in writing in relation to the Branch Committee's management of the Secured Property and adherence to the terms of the financing documents.
- (g) The Branch Committee shall inform the National Secretary, and keep the National Secretary informed, of all accounts at banks or financial institutions in which funds that form part of the Branch Fund of the Branch are held and the purpose for which each account is maintained.
- (h) In the event that the National Executive forms the view, on reasonable grounds, that the Branch Committee has breached its obligations, or that there is a likelihood that the Branch Committee will not meet its obligations, under the terms and conditions of the financing documents, the National Executive may take all steps necessary to remedy the breach, including exercising any of the powers of the Branch Committee in relation to the Secured Property. The National Executive shall be entitled to meet the costs of taking such remedial action using the funds of the Branch.
- (i) In the event that the Branch wishes to enter into new financing documents, it shall obtain the consent of the National Executive. The National Executive shall give that consent by resolution provided that it is satisfied on reasonable grounds that entering into the new financing documents is in the best interests of the Union, having regard to the Union's obligations under the existing financing documents and the new financing documents, the interests of the Branch and any other relevant matter.
- (j) In the event that the Branch Committee decides to sell the Secured Property, or acquire new real property, it shall obtain the consent of the National Executive for the sale or acquisition. The National Executive shall give that consent by a resolution, provided that it is satisfied on reasonable grounds that the sale is in the best interests of the Union, having regard to the impact of the sale or acquisition on the Union, the interests of the Branch and any other relevant matters.
- (k) The Branch Committee shall pay for all costs and expenses incurred by the Union in relation to considering and entering into any such financing documents and complying with any ongoing compliance obligations under the financing documents as and when required under the financing documents or in relation to any sale of the Secured Property or the acquisition of any new real property.

**INSERT NEW RULE 81 AS FOLLOWS:**

**94 – TRANSITIONAL RULES ARISING FROM THE 2013 RULE CHANGES**

- (a) The amendments to the rule 14 (National Officers) and 69 (Dual Offices) take effect as follows:
  - (i) The current office holders referred to in rule 14 continue to hold office pursuant to rule 23 B(a) and those offices continue to exist. Those office holders may cease to hold their offices in the ordinary manner pursuant to these rules;
  - (ii) For the purposes of the conduct of the elections to be held in 2014 the reference to National Officers in rule 23 B(a) shall mean the National Officers referred to in rule 14 as amended by these rules. After the conduct of the elections the amendments to rule 14 have full effect; and

- (iii) For the elections to be held in 2014, and thereafter, the amendments to rule 69 take effect.
- (b) The amendments to the rule 40 (Branch Officers), the final paragraph of rule 48 (Branch Secretary), rule 50 (now retitled Branch Assistant Secretary – Treasurer of the NSW Branch) and rule 53 (Branch Trustees) have the effect of making the office of Assistant Secretary and the offices of Branch Trustee positions the same as those that exist in each of the other Branches, other than the New South Wales Branch. The amendments to those rules take effect as follows:
  - (i) The current holder of the office of Branch Assistant Secretary-Treasurer of the Victoria No 1 Branch shall continue to hold office pursuant to rule 23 A(b) and that office continues to exist. That office holder may cease to hold her office in the ordinary manner pursuant to these rules;
  - (ii) For the purposes of the conduct of the elections to be held in 2014 the reference to Officers of a Branch in rule 23 B(a) shall mean the Branch Officers referred to in the rule 40 as amended by these rules. After the conduct of the elections the amendments to rule 40 have full effect;
  - (iii) In rule 40(b), the insertion of the words ‘and Branch Assistant Secretary’ takes effect on the certification of this rule.
  - (iv) The following amendments will take effect on the declaration of the results of the ballots for the offices of Victorian No 1 Branch Trustees in 2014, or on the date the Branch Assistant Secretary-Treasurer shall cease to hold office (whichever is the later):
    - (A) In rule 48, the amendments to the final paragraph.
    - (B) In rule 50, the amendments to the unnumbered head of the rule.
    - (C) In rule 51, the deletion of the words ‘and the Victorian No 1 Branch’.
    - (D) In rule 53 (b), the deletion of the words ‘and the Victorian No 1 Branch’.
    - (E) In rule 53 (c), the deletion of the words ‘and the Victorian No 1 Branch’.
- (c) The amendments to the rules made in 2013 otherwise take effect on the date the rules are certified, unless the context requires otherwise.

\*\*\*END OF RULES\*\*\*

## Schedule 'B'



## HSU National Office

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**From:** HSU National Office  
**Sent:** Monday, 21 October 2013 11:14 AM  
**To:** HSU National Office  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

Dear Delegates to National Council,

Please find attached details for the upcoming HSU National Council Conference and Meeting to be held in Melbourne on 21-22 November 2013 at the Bayview Eden Hotel, 6 Queens Road Melbourne.

Attached please find:

- Notice of Meeting
- Conference Program
- National Council Meeting Agenda
- Proposed Rule changes to be considered by Council

Further papers for Council will follow shortly.

Regards,

Chris Brown.



\*\*\*\*\*  
Chris Brown | National President | Health Service Union  
PO Box 20349 | World Square | NSW 2002  
Suite 111 Trades Hall | 4 Goulburn St | Sydney 2000  
[www.hsu.net.au](http://www.hsu.net.au) | [chrisb@hsu.net.au](mailto:chrisb@hsu.net.au) | 0418 564 199

## Schedule 'C'



**Health Services Union  
2013 Annual National Council Conference & Meeting**

**NOTICE OF MEETING**

National Council Delegates

The 2013 Annual Council Conference and Meeting of National Council will be held on Thursday 21<sup>st</sup> and Friday 22<sup>nd</sup> of November in Melbourne at the Bayview Eden Hotel, 6 Queens Road, Albert Park.

The Conference will take commence at 11.00am on Thursday 21<sup>st</sup> November and conclude at 11.00am on Friday 22<sup>nd</sup> November and will be immediately followed by the formal meeting of the 2013 Annual National Council Meeting which is expected to conclude by 2.00pm.

On the Thursday night will be the official National Council Dinner, at the Bayview Eden Hotel, with a band and dancing for delegates to enjoy.

Attached please find

1. The Notice of Meeting and National Council Meeting Agenda.
2. A program for the Council Conference
3. A copy of the proposed rule changes [Agenda Item 8] to be put to the meeting

Further background documents relevant to the Council program will be forwarded to you by email shortly. Please note that hard copies of the Council papers and draft rules will not be provided and if you wish a hard copy please contact your branch to arrange.

Your Branch is responsible for arranging your travel to and from Melbourne. If you cannot attend this meeting of Council can you please advise your Branch Secretary so that a proxy can be arranged.

I look forward to meeting you all in Melbourne in November.

Yours in Unity

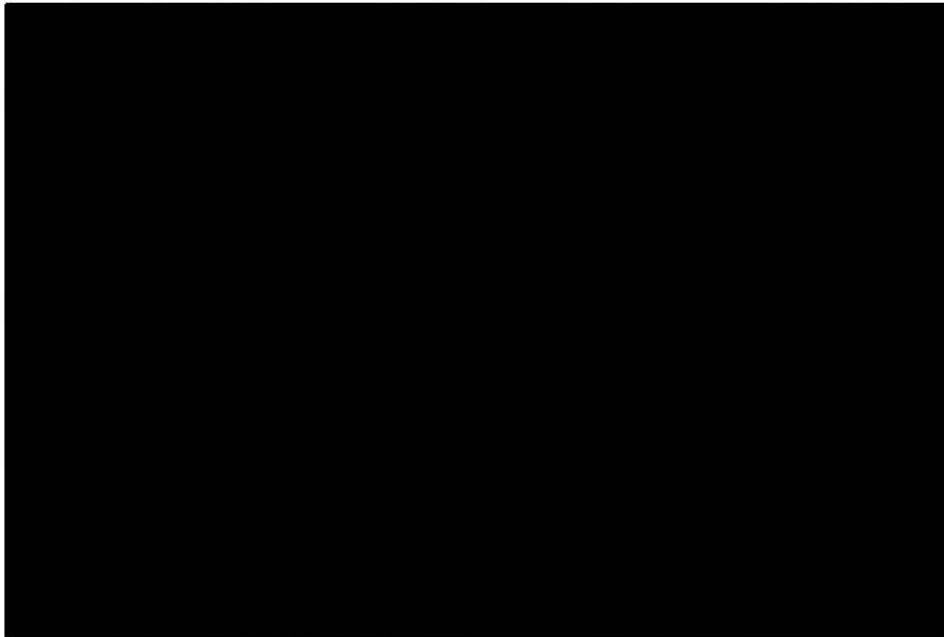
Lloyd Williams  
**Acting National Secretary**

Schedule 'D'



**Health Service Union  
National Council Annual Meeting  
AGENDA**

Meeting to be held 11.00am Friday 22 November 2013  
Bayview Eden Hotel, 6 Queens Road, Melbourne



**8. Proposed Rule Changes**

