



DECISION

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

CPSU, the Community and Public Sector Union (R2022/15)

MURRAY FURLONG

MELBOURNE, 29 JUNE 2022

Alteration of other rules of organisation.

[1] On 9 February 2022 the CPSU, the Community and Public Sector Union (the Union) lodged with the Fair Work Commission a notice and declaration setting out particulars of alterations to Chapter B of its rules. Chapter B rules apply to the PSU Group of the Union.

[2] The particulars set out alterations to opening words of the Chapter B rules, insert new Subrule 5.25, ‘Delegate Standard’, and alter Rules:

- 1.3 – Governing Council Powers
- 1.10 – Executive Committee Powers
- 2.3 – Workplace Delegates
- 2.4 – Workplace Representatives
- 5.15 – Removal from Office by Governing Council
- 5.16 – “No Confidence” Motions
- 5.18 – Disputes and Charges
- 5.19 – Dispute Tribunals

[3] On the information contained in the notice, I am satisfied the alterations have been made under the rules of the organisation.

[4] The alterations define ‘elected representative’ and ‘person elected or appointed to office’. They also change references to ‘officer elected or appointed’ to ‘person elected or appointed to office’, which aligns with the nomenclature in the *Fair Work (Registered Organisations) Act 2009* (the Act).

[5] The alterations remove the 28 day time limit for making specified charges against a member or an officer. The alterations also remove the requirement to make a \$100 deposit when making a charge, and remove fines and add formal warnings as sanctions if found guilty.

[6] The alterations also enable the Governing Council of the PSU Group of the Union to establish a ‘Delegate Standard’ (the Standard) and requires officers, delegates and workplace representatives to comply with the Standard. A process for dealing with complaints about non-compliance with the Standard is also introduced, which assures procedural fairness, and outlines a number of possible sanctions for breaches of the Standard by offices, delegates and workplace representatives. The sanctions include formal warnings (proposed sub-rule 5.25(1)(i)) and removal as a delegate or representative (proposed sub-rule 5.25(1)(iii) and proposed alteration to sub-rule 2.4(g)), and removal from office but only in the circumstances prescribed by section 141(1)(c) of the Act.

[7] One of the proposed sanctions on delegates and holders of office, if found to have breached the Standard, is deprivation of rights attaching to membership for a period of up to 6 months (proposed sub-rule 5.25(1)(ii)).

[8] A fundamental premise of the Act is recognition of the right of members to participate in their organisations. Section 5 sets out Parliament’s intention in enacting the Act, which includes encouraging members to participate in the affairs of organisations to which they belong.¹

[9] Section 166 of the Act entitles a member to remain a member of the Union, as long as they comply with the rules of the Union.² A member is entitled to *effective* membership, not merely nominal membership, that is a member is entitled to participate in the affairs of their union as prescribed by its rules and receive the benefits of membership³. The Act explicitly confers a number of entitlements on members, such as the right to receive financial information⁴ and the right to vote in ballots⁵, including in elections for holders of office.⁶

[10] Subsection 142(1)(c) of the Act provides that rules must not impose oppressive, unreasonable or unjust conditions, obligations or restrictions on applicants for membership, or members, of the organisation, having regard to Parliament’s intentions in enacting the Act.

[11] Depriving a member of their rights attaching to membership, as is proposed by new sub-rule 5.25(1)(ii), appears to remove the right to effective membership as well as removing a number of rights conferred by the Act. Depriving a member of effective membership may be construed as contrary to the Act and as imposing oppressive, unreasonable or unjust conditions on members, having regard to Parliament’s intentions in enacting the Act.

[12] On 17 March 2022 the Union was offered the opportunity to consider whether proposed sub-rule 5.25(1)(ii) is contrary to the Act and was invited to provide a response. On 31 March 2022 the Union requested that if I formed the view that proposed sub-rule 5.25(1)(ii) is contrary to the Act, this rule be severed and the remaining alterations certified.

[13] In the absence of receiving a submission to the contrary, and on the basis of the information before me, I am unable to conclude that the alteration to sub-rule 5.25(1)(ii) complies with and is not contrary to the Act. I must now consider whether this alteration is severable from the remainder of the alterations.

[14] Proposed subrule 5.25(1)(ii) sets out one of a number of possible sanctions for breaches of the Standard. If this subrule is not certified, the remaining alterations, and in particular the remaining parts of proposed rule 5.25 are not affected. Other sanctions remain, and proposed subrule 5.25(1) does not exhaustively list sanctions.

[15] I am satisfied that proposed sub-rule 5.25(1)(ii) is severable from the other alterations in light of the principles set out by the majority in *Re Food Preservers' Union of Australia* (1988) 79 ALR 138. In particular, I am satisfied that the remaining alterations operate independently of proposed sub-rule 5.25(1)(ii) and severance will not affect the meaning and effect of the remaining alterations.

[16] In my opinion, with the exception of sub-rule 5.25(1)(ii.), the alterations comply with and are not contrary to the Act, 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 Act.



GENERAL MANAGER

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¹ Subsection 5(3)(b) of the Act provides, in part, as follows:

The standards set out in this Act:

...

(b) encourage members to participate in the affairs of organisations to which they belong; ...

² Subsection 166 (1) of the Act provides as follows:

Subject to any modern award or order of the FWC, a person who is eligible to become a member of an organisation of employees under the eligibility rules of the organisation that relate to the occupations in which, or the industry or enterprise in relation to which, members are to be employed is, unless of general bad character, entitled, subject to payment of any amount properly payable in relation to membership:

- (a) to be admitted as a member of the organisation; and
- (b) to remain a member so long as the person complies with the rules of the organisation.

³ See *Bywater v FCU* (1955) 82 CAR 46 at 51

⁴ For example:

Subsection 265 (1) of the Act provides, in part, as follows:

- (1) A reporting unit must provide free of charge to its members either:
 - (a) a full report consisting of:
 - (i) a copy of the report of the auditor in relation to the inspection and audit of the financial records of the reporting unit in relation to a financial year; and
 - (ii) a copy of the general purpose financial report to which the report relates; and
 - (iii) a copy of the operating report to which the report relates; or
 - (b) a concise report for the financial year that complies with subsection (3).

Subsection 272 (1) of the Act provides as follows:

- (1) A member of a reporting unit, or the Commissioner, may apply to the reporting unit for specified prescribed information in relation to the reporting unit to be made available to the person making the application.

Subsections 293BC (1) and (2) of the Act provide as follows:

- (1) An organisation must, for a financial year, disclose to the members of the organisation and its branches detail of the following in accordance with subsection (3):
 - (a) the identity of each officer of the organisation who, when all officers of the organisation are ranked by relevant remuneration for the financial year (from highest to lowest), is ranked no lower than fifth;
 - (b) for each of those officers:
 - (i) the actual amount of the officer's relevant remuneration for the financial year; and
 - (ii) the value and form of the officer's relevant non-cash benefits for the financial year.
- (2) A branch of an organisation must, for a financial year, disclose to the members of the branch, details of the following in accordance with subsection (3):
 - (a) the identity of each officer of the branch who, when all officers of the branch are ranked by relevant remuneration for the financial year (from highest to lowest), is ranked no lower than fifth;
 - (b) for each of those officers:
 - (i) the actual amount of the officer's relevant remuneration for the financial year; and
 - (ii) the value and form of the officer's relevant non-cash benefits for the financial year.

Subsections 293G (1) and (2) of the Act provide as follows:

- (1) An organisation must, for a financial year and in accordance with subsection (3), disclose to the members of the organisation and its branches, details of each payment made by the organisation during the financial year:
 - (a) to a related party of the organisation or of a branch of the organisation; or
 - (b) to a declared person or body of the organisation.
- (2) A branch of an organisation must, for a financial year and in accordance with subsection (3), disclose to the members of the branch each payment made by the branch, during the financial year:
 - (a) to a related party of the branch; or
 - (b) to a declared person or body of the branch.

⁵ Subsection 345 (1) of the Act provides as follows:

- (1) Subject to reasonable provisions in the rules of an organisation in relation to enrolment, every financial member of the organisation has a right to vote at any ballot taken for the purpose of submitting a matter to a vote of the members of the organisation, or of a branch, section or other division of the organisation in which the member is included

⁶ Section 143 provides, in part, as follows:

- (1) The rules of an organisation:
 - (a) must provide for the election of the holder of each office in the organisation by:
 - (i) a direct voting system; or

-
- (ii) a collegiate electoral system that, in the case of a full-time office, is a one-tier collegiate electoral system; and

Section 6 of the Act defines direct voting system as follows:

direct voting system, in relation to an election for an office in an organisation, means a method of election at which:

- (a) all financial members; or
 - (b) all financial members included in the branch, section, class or other division of the members of the organisation that is appropriate having regard to the nature of the office;
- are, subject to reasonable provisions in relation to enrolment, eligible to vote.

Eve Anderson

From: Aidan Nash [REDACTED]
Sent: Wednesday, 9 February 2022 10:10 AM
To: ROS
Subject: CPSU Application for Rule Change in accordance with s159 and regulation 126 - Delegate Standard
Attachments: NOTICE OF PROPOSED S159 RULE CHANGE - Delegate Standard 8.2.22.pdf; Declaration by Melissa Donnelly re alteration to Chapter B rules of the CPSU - 8.2.22.pdf; Schedule A to Declaration of M Donnelly - CPSU Rules Vol 2 (Proposed changes mark up) - 1.2.22.docx; MD1 - Item 7.1 Delegate Code and procedures.pdf; MD2 - GC Out of Session vote 2.2021- Delegate Standard.pdf; Reminder - Governing Council: Update and Out of Session Vote (please vote by 10 December); MD4 - PSU Group rule 1.6 GC Declaration 2.2021 Delegate Standards.pdf; MD5 - NOC out of session vote 1.2021 Delegate Standard.pdf; MD6 - NOC Ballot 1.2021 Declaration Delegate Standards Chapter B Rule Change.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Fair Work Commission,

Attached is a notice of rule alterations to the Chapter B rules of the CPSU that were approved by the CPSU National Officers Committee on 9 December 2021. I have also attached a declaration and attachments by National Secretary of the PSU Group of the CPSU, Melissa Donnelly.

A notice has been published on the CPSU website that this application has been lodged with the Fair Work Commission. It can be viewed at the link below:

https://www.cpsu.org.au/CPSU/Content/News/A_change_to_the_CPSU_rules.aspx

Please contact me if you require any further information.

Regards,



Aidan Nash | Senior Industrial Officer | Legal and Industrial Unit | CPSU | mobile 0420 968 937 website www.cpsu.org.au | member service centre 1300 137 636

FAIR WORK COMMISSION

Fair Work (Registered Organisations) Act 2009

Application under s159 and Regulation 126 to amend the rules of an organisation

IN THE MATTER OF:

**AN APPLICATION TO AMEND THE RULES OF THE CPSU, the COMMUNITY
AND PUBLIC SECTOR UNION (“CPSU”) UNDER S159 AND REG 126**

**NOTICE OF PARTICULARS UNDER REGULATION 126(1) OF PROPOSED
ALTERATION TO THE CHAPTER B RULES OF THE CPSU**

1. I, Melissa Donnelly, as the National Secretary of the PSU Group of the Community and Public Sector Union (“CPSU”), give notice of particulars of proposed alterations to the Chapter B Rules of the CPSU (“the rule changes”) referred to in this Notice, in the attached declaration and schedule.
2. On the basis of this material the General Manager should be satisfied that the rule changes have been made in accordance with the rules of the CPSU and should exercise his power to certify that the rules have been made under s159 of the Act.

**A. PARTICULARS OF PROPOSED ALTERATIONS TO THE CHAPTER B
RULES OF THE CPSU**

3. The alterations proposed by this application are listed below:
 - I. *Before rule 1.1 after the words ‘In this Chapter’ insert:*

“**elected representative**” includes delegates, deputy delegates, and persons elected or appointed to an office.

“**person elected or appointed to an office**” means any person elected or appointed under Part 3 of these Rules.

II. Amend rule 1.3(b)(x) as follows:

1.3 - GOVERNING COUNCIL – POWERS

x. in respect of any particular matter, and without limiting any specific delegation contained in these Rules, delegate a power or task to a specified Officer of the PSU Group or a specified Committee or Council other than a power contained in the following Rules, except that where a specific power or task must be exercised by an Officer, as defined in the RAO Schedule of the Workplace Relations Act 1996, that power or task shall only be delegated to an Officer, so defined, or a Committee or Council constituted only of Officers, so defined:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
- 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
- 4.10 subscriptions
- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) **establishing a Delegate Standard.**

III. Amend rule 1.10(b) as follows

1.10 - EXECUTIVE COMMITTEE – POWERS

b. The Executive Committee shall not exercise any of the powers of the Governing Council in relation to Rules specified herein:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
- 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
- 4.10 subscriptions
- 4.11 levies on members

- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) establishing a Delegate Standard**

IV. *Amend rule 2.3(e) as follows:*

2.3 - WORKPLACE DELEGATES

e. A Delegate, **acting in accordance with the Delegate Standard**, may carry out any lawful task authorised by the Union or these Rules, which includes but is not limited to the following authorised tasks:

- i. distributing authorised Union publications and bulletins to workers;
- ii. calling and conducting meetings of members and workers;
- iii. recruiting workers to join the Union;
- iv. canvassing the workers to identify matters of concern;
- v. acting as a representative or witness for a member in a workplace matter;
- vi. meeting with relevant management representatives;
- vii. putting authorised Union publications on Union notice boards; and
- viii. organising workers to participate in lawful action authorised by the Union.

V. *Amend rule 2.4(g) as follows:*

2.4 - WORKPLACE REPRESENTATIVES

g. A Workplace Representative shall be removed from the list of authorised Workplace Representatives by the Governing Council if they cease to be a member of the Union, where the Workplace Representative has failed to comply with Union policy or acted contrary to **the Delegate Standard** or a decision or direction of a relevant body or official, by a majority vote of a meeting of members in the workplace, or where they are not re-credentialled in accordance with paragraph (e).

VI. *Amend rule 5.15(a) as follows*

5.15 - REMOVAL FROM OFFICE BY GOVERNING COUNCIL

a. The Governing Council, if two-thirds of its members present and entitled to vote so decide, may at any time remove from office any ~~officer elected or appointed~~ **person elected or appointed to an office** under these Rules who has:

- i. Misappropriated the funds of the PSU Group.
- ii. Committed a substantial breach of the Rules.
- iii. Been found guilty of gross misbehaviour or gross neglect of duty.

VII. *Amend rule 5.16(a) as follows*

5.16 - "NO CONFIDENCE" MOTIONS

- a. A motion of “no confidence” in an ~~an Officer-person elected or appointed to an office~~ may be moved at a meeting of Governing Council or Section Council provided that:
 - i. notice of such motion was given at a previous meeting.
 - ii. notice of intention, including the substantial details of the allegation, are given in writing to the officer at least 21 days prior to the meeting.
 - iii. the ~~an Officer-person elected or appointed to an office~~ is given adequate time and opportunity to reply to the allegation at the meeting.

VIII. Amend rule 5.18 as follows:

5.18 - DISPUTES AND CHARGES

- a. The following are offences with which a member may be charged under this Rule.
 - i. misappropriation of the funds of the Union.
 - ii. a substantial breach of the Rules of the Union.
 - iii. gross misbehaviour or gross neglect of duty.
 - iv. an infringement of the Union's Rules, resolutions, or directions lawfully given.
- b. A member may lay a charge, ~~within 28 days of the occurrence of the alleged offence,~~ against any other member alleging that member has been guilty of one or more of the offences mentioned in paragraph (a).
- c. Any such charge shall be in writing, ~~accompanied by a deposit of \$100,~~ signed by the member laying the charge and shall be delivered to the National Secretary. ~~The deposit shall be retained by the National Secretary until the charge is finally dealt with.~~
- d. Within 7 days of receiving such charge, the National Secretary shall forward the original charge to the Chair of the Disputes Tribunal and forward a copy to the member charged.
- e. The Executive Committee may instruct the National Secretary or another National Officer to lay a charge on its behalf against a member. ~~The provisions of paragraph (c) as to a deposit shall not apply to such a charge.~~
- f. A charge must, in order to be valid, state clearly the nature of the offence alleged, the date or dates of the occurrence of the offence alleged and must also contain particulars of the alleged facts on which the charge is based.
- g. As soon as a charge is laid under this Rule, no discussion of the matter shall take place at any meeting held under these Rules until such time as the charge is finally dealt with.
- h. ~~Notwithstanding paragraph (b), a charge against an officer alleging an offence of the kind set out in subparagraphs (i) to (iii) of paragraph (a) may be laid by a member at any time.~~ If an alleged offence would constitute non-compliance with the Delegate Standard, the National Secretary may deal with the charge under rule 5.25 instead of the process under this rule.
- i. Should a charge be laid against the National Secretary, references in paragraphs (c), (d) and (e) shall be read as references to the National President.

IX. Amend rule 5.19 as follows:

5.19 - DISPUTES TRIBUNALS

- a. Disputes Tribunals of 3 members shall be appointed from time to time by the Executive Committee for the purposes of hearing charges under Rule 5.18. Where a member of a

Disputes Tribunal is a person who is subject to a charge under Rule 5.18 then that person shall not be a member of the Tribunal that determines the charge.

- b. The Disputes Tribunal shall be reimbursed by the Executive Committee for all necessary out of pocket expenses.
- c. The Disputes Tribunal may, subject to these Rules, establish its own procedures. Hearings of the Disputes Tribunal may be held by telephone or video conference.
- d. Any member charged shall be entitled to be represented at any hearing of the Disputes Tribunal.
- e. A Disputes Tribunal, may after consideration of the charge made, conclude that there is no case to answer and accordingly dismiss the charge without holding any hearing.
- f. In the event of the Tribunal finding that there is a prima facie case to answer, it shall proceed to hear the charge and afterwards notify its recommendation in writing as soon as practicable to the member charged, the member laying the charge and the National Secretary or National President.
- g. Any member charged shall attend at a time and place fixed by members of the Disputes Tribunal.
- h. No member shall be required to attend before a Disputes Tribunal without receiving reasonable travel expenses and compensation for loss of pay.
- i. If the Disputes Tribunal considers that a member is guilty of the charge alleged under Rule 5.18, **it may issue the member with a formal warning or** it may recommend to the Governing Council one or more of the following:
 - ~~i. imposition of a fine not exceeding \$250; or~~
 - ii. deprivation of any right of membership for any specified period not exceeding six months; or
 - iii. removal of the member from any office or position if any of the offences set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- j. The member charged may, within 21 days of the forwarding of the Disputes Tribunal recommendation, provide a written response to the National Secretary.
- k. Not earlier than the expiration of the 21 day period as provided in paragraph (j), the National Secretary shall submit the recommendation of the Disputes Tribunal, and any response from the member charged, to the Governing Council for determination under Rule 1.4, 1.5 or 1.6.

~~l. After the Governing Council has dealt with the recommendation, the Disputes Tribunal shall direct the National Secretary to either refund the deposit to the member laying the charge or pay the deposit into the PSU Group's funds.~~

X. *Insert new rule 5.25 as follows:*

5.25 – DELEGATE STANDARD

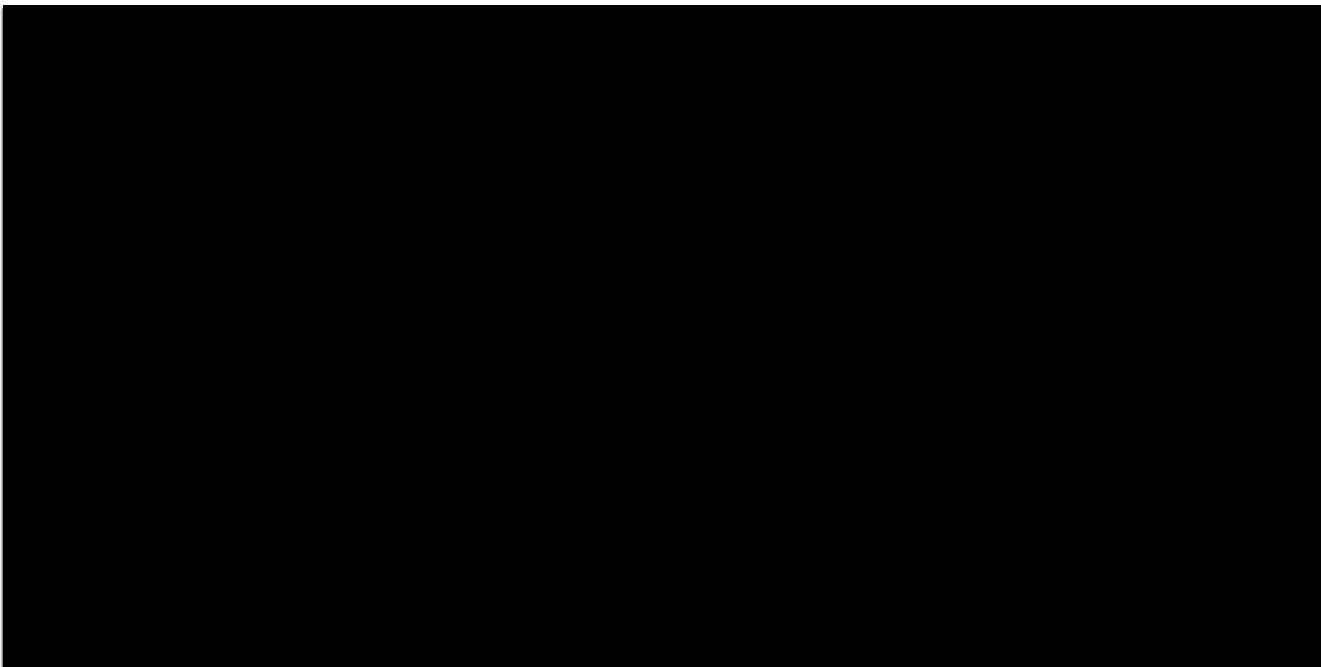
- a. Governing Council may establish a Delegate Standard to impose standards of conduct on elected representatives.
- b. Governing Council may establish procedures for managing complaints and dealing with breaches of the Delegate Standard that are consistent with this rule.
- c. Governing Council may establish a Standards Committee made up of at least 3 Governing Council members.
- d. Elected representatives must comply with the Delegate Standard.

- e. A member may make a complaint about an elected representative to the National Secretary if the member believes that the elected representative has not complied with the Delegate Standard.
- f. The National Secretary may dismiss a complaint without investigation if:
 - i. The complaint, if proven, would not constitute a breach of the Delegate Standard, or
 - ii. The complaint is vexatious, frivolous, unreasonable or malicious.
- g. Any decision to dismiss a complaint will be in writing setting out the reasons for the decision.
- h. The National Secretary may initially attempt to resolve the complaint informally through discussion, mediation or other processes.
- i. If the above processes are not appropriate or fail to resolve the complaint, an investigation may be done by the National Secretary. An independent investigator may be appointed where appropriate.
- j. Following the investigation, a report will be provided to the Standards Committee which may include recommendations.
- k. The Standards Committee will:
 - i. Review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Delegate Standard, and
 - ii. If the conduct does constitute a breach, determine an appropriate sanction.
- l. Sanctions for breach of the Delegate Standard may include:
 - i. A formal warning,
 - ii. Deprivation of the rights attaching to membership for a specified period up to 6 months, or
 - iii. Removal from office - only if any of the grounds set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- m. The person who is the subject of the complaint must be afforded procedural fairness throughout this process.
- n. The National Secretary will, as far as practicable, give effect to the sanction determined by the Standards Committee.
- o. The National Secretary may remove a deputy delegate or delegate from their elected position in accordance with this process.
- p. The removal of a Section Councillor, Section Officer, Governing Councillor or National Officer may only proceed with a two-thirds majority support vote of Governing Council in accordance with rule 5.15.
- q. The National Secretary may delegate their powers and responsibilities under this rule, other than the power in paragraph (n), to another National Officer or staff member of the PSU Group.
- r. If a complaint relates to the National Secretary, references to the National Secretary in this rule should be read as references to the National President.”

B. DECLARATIONS ON RULE COMPLIANCE , ACTION TAKEN, PUBLICATION OF NOTICE, AND TRUTH REQUIRED BY REGULATIONS 126(1)(b), and 126(2)(a) to (c)

4. As the National Secretary of the PSU Group of the CPSU, and Joint National Secretary of the CPSU, I am authorised to make the following declarations:
 - a. I will file the following documents together with this notice of particulars:
 - i. A declaration entitled “Declaration of Melissa Donnelly in respect of the proposed alteration to the Chapter B Rules of the CPSU.” (“the Donnelly Declaration”)
 - ii. Schedule A to the Donnelly Declaration being a full copy of the Chapter B rule book with alterations sought by this application marked as tracked changes.
 - b. The Donnelly Declaration establishes the actions taken by the CPSU to make the alterations particularised in this notice and establishes the alterations have been made in accordance with the CPSU rules.
 - c. I therefore declare:
 - i. The alterations were made in accordance with the CPSU rules;
 - ii. The actions to make these alterations taken under those rules are as outlined in the Donnelly Declaration;
 - iii. The particulars set out in this notice and the Donnelly Declaration are true and correct to the best of my knowledge and belief.

DATED THE 8th DAY OF FEBRUARY 2022



FAIR WORK COMMISSION

Fair Work (Registered Organisations) Act 2009

Application under s159 and Regulation 126 to amend the rules of an organisation

IN THE MATTER OF:

AN APPLICATION TO AMEND THE RULES OF THE CPSU, THE COMMUNITY AND PUBLIC SECTOR UNION (“CPSU”) UNDER S159 AND REG 126

DECLARATION OF MELISSA DONNELLY IN RESPECT OF THE PROPOSED ALTERATION TO THE CHAPTER B RULES OF THE CPSU

I, Melissa Donnelly, of 54 Foveaux St, Surry Hills in the State of New South Wales solemnly and sincerely declare and affirm:

1. I am the National Secretary of the PSU Group of the CPSU, and Joint National Secretary of the CPSU, and I make this declaration from my own knowledge unless I otherwise indicate.
2. I am authorised to give this notice of particulars of amendments to the rules of the CPSU and to make this declaration as required by Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009*.
3. I declare the proposed alterations:
 - detailed in the Notice of Particulars of the proposed alteration to the chapter B rules of the CPSU signed by myself; and
 - attached to this declaration and labelled “**SCHEDULE A**” as a full copy of the Chapter B rule book with the alterations sought by this application marked as tracked changes;were made in accordance with the Rules of the CPSU.

4. Rule 15(d)(ii) of the Chapter A Rules of the CPSU (Chapter A Rules) provides:

“alterations to the Rules of Chapter B shall be approved by the NOC, by a majority of the votes exercisable in accordance with rule 16 in favour, only on the recommendation of the PSU Group Governing Council”

5. The actions taken under the Rules to make the alterations to the Chapter B Rules of the CPSU (“Chapter B Rules”) were as follows:

PSU Group Governing Council Recommendation:

5.1 Before a meeting of the PSU Group Governing Council on 21 October 2021, I sent a memorandum to all members of the Governing Council entitled “*Item 7.1 - Delegate Code and Procedures*” (“Governing Council Background Memo”). The memorandum outlined a proposal for implementing a delegate code of conduct and enforcement process.

A true copy of the Governing Council Background Memo is attached to this declaration as **MD1**.

5.2 At the meeting of 21 October 2021, the Governing Council Background Memo was discussed, and the PSU Group Governing Council agreed that the code of conduct would be called the ‘delegate standard’ and noted that they would be required to endorse a change to the CPSU rules in the future to implement the delegate standard.

5.3 On 26 November 2021, I sent a memorandum to the PSU Group Governing Council entitled “*Governing Council Out of Session Vote 2.2021: Delegate Standard*” (“The Governing Council Memo”). The memorandum included a motion recommending the rule change to the National Officers Committee (NOC). The memorandum asked members of the Governing Council to endorse the motion by out of session vote in accordance with the requirements of Rule 1.6a of the Chapter B Rules.

A true copy of the Governing Council Memo is attached to this declaration as **MD2**.

5.4 In accordance with Rule 1.6c of the Chapter B Rules, voting was open for 14 days until 10 December 2021. Although the Governing Council Memo requested that votes be cast by 9 December 2021, a reminder email was sent to the PSU Governing Council on 7 December 2021 clarifying that voting would be open until COB 10 December 2021.

A true copy of the reminder email is attached to this declaration as **MD3**.

5.5 On 10 December 2021 the out of session vote of the Governing Council was declared and the resolution was carried.

A true copy of the declaration of the Governing Council vote is attached to this declaration as **MD4**.

National Officer Committee Resolution

5.6 On 17 December 2021, Karen Batt and I, as Joint National Secretaries of the CPSU, caused a memorandum entitled “*NOC Out of Session Vote 1.2021 – Delegate Standard*” (“The NOC Memo”) to be sent to NOC officers by email. The NOC Memo included a resolution approving the rule change and asked members of the NOC to endorse the resolution by out of session vote in accordance with the requirements of Rule 17(f) of the Chapter A Rules. The NOC Memo included the following:

- i. A memorandum setting out a proposed resolution and the reasons for the proposed alteration of the Chapter B Rules.
- ii. The Governing Council Background Memo
- iii. The Governing Council Memo
- iv. A copy of the declaration of the Governing Council vote

A true copy of the NOC Memo is attached to this declaration as **MD5**.

5.7 On 27 January 2022 the out of session vote of the NOC was declared and the resolution was carried.

A true copy of the declaration of the NOC vote is attached to this declaration as **MD6**.

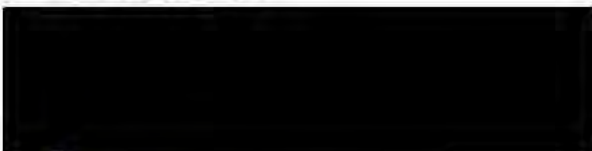
6. The proposed Chapter B Rules have been approved by properly convened and compliant votes of the Governing Council of the CPSU PSU Group and the NOC. All the procedural steps in the rules of the CPSU have been followed for the making of the amendment to the Chapter B rules which are the subject of this application.
7. I therefore declare:
 - 7.1 The alterations to the Chapter B Rules have been made in accordance with the rules of the CPSU as required by Regulation 126(2)(a);
 - 7.2 This declaration establishes the action taken under the Rules of the CPSU to make the alteration as required by Regulation 126(2)(b); and
 - 7.3 The particulars set out in the Notice of Particulars and this Declaration are true and correct to the best of my knowledge as required by Regulation 126(2)(c).

**DECLARED BY MELISSA DONNELLY, JOINT NATIONAL SECRETARY OF THE
CPSU THIS 8th DAY OF FEBRUARY 2022 AT SURRY HILLS IN THE STATE OF
NEW SOUTH WALES**



Melissa Donnelly

BEFORE ME



Legal Practitioner

54 Foveaux Street, Surry Hills NSW 2010.

[090VPSU: Incorporates alterations of 28 May 2020 [R2019/147]]
Replaces rulebook dated 9 April 2019 [R2019/3]

I CERTIFY under section 161 of the *Fair Work (Registered Organisations) Act 2009* that the pages herein numbered 1 to 57 both inclusive contain a true and correct copy of the registered rules of the CPSU, the Community and Public Sector Union;
Chapter B - PSU Group Rules

DELEGATE OF THE GENERAL MANAGER
FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any registry of the Fair Work Commission.]

Rules of the
CPSU, the Community and Public Sector Union
Chapter B - PSU Group
Contents

CHAPTER B - PSU GROUP - RULES 1

 Preamble:..... 1

PART 1 – GOVERNANCE 2

 1.1 - GOVERNMENT OF THE PSU GROUP 2

 1.2 - GOVERNING COUNCIL - CONSTITUTION 2

 1.3 - GOVERNING COUNCIL - POWERS 3

 1.4 - GOVERNING COUNCIL - ORDINARY MEETINGS 4

 1.5 - GOVERNING COUNCIL - SPECIAL MEETINGS 4

 1.6 - GOVERNING COUNCIL – OUT OF SESSION DECISIONS 5

 1.7 - GOVERNING COUNCIL - VOTING 5

 1.8 – DUTIES OF GOVERNING COUNCILLORS 5

 1.9 - EXECUTIVE COMMITTEE - CONSTITUTION 6

 1.10 - EXECUTIVE COMMITTEE - POWERS 6

 1.11 - EXECUTIVE COMMITTEE - MEETINGS 7

 1.12 - EXECUTIVE COMMITTEE – REVIEW 7

 1.13 – PLEBISCITES..... 8

PART 2 – OPERATIONS 9

 2.1 – OPERATIONS OF THE PSU GROUP..... 9

 2.2 – WORKPLACES 9

 2.3 - WORKPLACE DELEGATES 9

 2.4 - WORKPLACE REPRESENTATIVES 10

 2.5 – WORKPLACE CONTACTS 11

 2.6 - ORGANISING COMMITTEES 11

 2.7 – MEMBERSHIP INVOLVEMENT 11

 2.8 – WORKPLACE MEETINGS 12

 2.9 – MEETINGS IN MORE THAN ONE WORKPLACE 12

 2.10 – INDUSTRIAL DISPUTES AND REPRESENTATION 12

 2.11 – NATIONAL OFFICERS 13

 2.12 - DUTIES OF NATIONAL SECRETARY 13

 2.13 - DUTIES OF ASSISTANT NATIONAL SECRETARY 14

 2.14 - DUTIES OF NATIONAL PRESIDENT 14

 2.15 - DUTIES OF DEPUTY NATIONAL PRESIDENTS 15

 2.16 - DUTIES OF DEPUTY SECRETARIES 15

 2.17 - NATIONAL OFFICER CESSATION 15

 2.18 – ATTENDANCE OF NATIONAL OFFICERS AT MEETINGS 15

 2.19 - SECTIONS 15

 2.20 - SECTION SECRETARIES 16

 2.21 – SECTION OPERATIONS 16

 2.22 - DUTIES OF SECTION OFFICERS 18

PART 3 - ELECTIONS AND APPOINTMENTS19

- 3.1 - ADVICE TO INDUSTRIAL REGISTRAR 19
- 3.2 - APPOINTMENT OF RETURNING OFFICER 19
- 3.3 - DUTIES OF RETURNING OFFICER 19
- 3.4 - ELIGIBILITY TO NOMINATE AND VOTE 19
- 3.5 - NOMINATIONS..... 21
- 3.6 - NOMINATIONS - WITHDRAWAL 21
- 3.7 – TEAM NOMINATIONS 21
- 3.8 - BALLOT PROCEDURES - GENERAL 22
- 3.9 - BALLOT PROCEDURES - COLLEGIATE ELECTIONS 23
- 3.10 – METHOD OF VOTING..... 23
- 3.11 - COUNTING OF VOTES - ELECTION OF ONE CANDIDATE ONLY 24
- 3.12 - COUNTING OF VOTES - ELECTION OF MORE THAN ONE CANDIDATE 24
- 3.13 - SCRUTINEERS 25
- 3.14 - VACANCIES 25
- 3.15 - FILLING OF NEW POSITIONS 26
- 3.16- FIXING OF MINIMUM SALARIES & LOCATION OF SALARIED OFFICERS 26
- 3.17 - TERM OF OFFICE - CERTAIN OFFICES 26
- 3.18 – HOLDING OF MORE THAN ONE POSITION 26
- 3.19 - RETENTION OF BALLOT PAPERS 27
- 3.20 - ELECTION APPEALS 27
- 3.21 - ELECTION APPEALS COMMITTEE 27
- 3.22 - FORFEITURE OF OFFICE..... 28
- 3.23 - ELECTION ADVERTISING AND COMMENT 28

PART 4 – FINANCIAL 29

- 4.1 - FINANCIAL YEAR 29
- 4.2 - PSU GROUP FUNDS AND PROPERTY 29
- 4.3 - RECEIPT OF MONIES 30
- 4.4 - EXPENDITURE OF PSU GROUP FUNDS 30
- 4.5 - INVESTMENTS 30
- 4.6 - LOANS, GRANTS AND DONATIONS..... 31
- 4.7 - ACCOUNTING OFFICER..... 31
- 4.8 - STATEMENT OF ACCOUNTS 31
- 4.9 – ANNUAL BUDGET 32
- 4.10 - SUBSCRIPTIONS 32
- 4.11 - LEVIES ON MEMBERS..... 33
- 4.12 - SUBSCRIPTIONS & LEVIES WAIVER 33
- 4.13 - HONORARIA..... 33
- 4.14 - PAYMENT OF FINES 33
- 4.15 - RECOVERY OF SUBSCRIPTIONS..... 34
- 4.16 - APPOINTMENT OF AUDITORS 34
- 4.17 - EXPENDITURE IN RELATION TO MEETINGS..... 34

PART 4A - FINANCIAL DISCLOSURE AND TRAINING OBLIGATIONS FOR THE PSU GROUP 34

- 4A.1 34
- 4A.2 34

- 4A.3 34
- 4A.4 35
- PART 5 – ADMINISTRATION 35
 - 5.1 - ADMISSION 35
 - 5.2 - FINANCIAL MEMBER 36
 - 5.3 - RESIGNATION OF MEMBERSHIP 36
 - 5.4 - FORFEITURE 37
 - 5.5 - RE-ADMISSION TO MEMBERSHIP 37
 - 5.6 - LIABILITY OF FORMER MEMBERS 37
 - 5.7 - AFFILIATION 37
 - 5.8 - QUORUMS 37
 - 5.9 – RULES OF DEBATE 38
 - 5.10 – CHAIR OF MEETINGS 38
 - 5.11 - LIFE MEMBERSHIP 38
 - 5.12 - SERVICE AWARD 38
 - 5.13 – PUBLICATIONS AND BULLETINS 38
 - 5.14 - DISMISSAL OF ELECTED OFFICERS 39
 - 5.15 - REMOVAL FROM OFFICE BY GOVERNING COUNCIL 39
 - 5.16 - “NO CONFIDENCE” MOTIONS 39
 - 5.17 – APPEALS TO GOVERNING COUNCIL 39
 - 5.18 - DISPUTES AND CHARGES 40
 - 5.19 - DISPUTES TRIBUNALS 41
 - 5.20 - VALIDITY OF ACTS 42
 - 5.21 - DELEGATION OF POWERS 42
 - 5.22 - REGISTER OF MEMBERS 42
 - 5.23 - STAFF BARRED FROM APPOINTMENT AS PROXY 42
 - 5.24 – MINUTE BOOK TO BE KEPT 42
- PART 6 – MATTERS RELATING TO SPECIFIC SECTIONS 42
- PART 7 – TRANSITIONAL PROVISIONS 42
 - 7.1 - CONTINUATION OF CERTAIN OFFICE HOLDERS 43
 - 7.2 – TRANSLATION OF CERTAIN OFFICE HOLDERS 43
 - 7.3 – TRANSITIONAL OFFICE HOLDERS 43
 - 7.4 - TRANSITIONAL GOVERNING COUNCIL 44
 - 7.5 - TRANSITIONAL EXECUTIVE COMMITTEE 44
 - 7.6 – TRANSITIONAL SECTION COUNCILS AND SECTION OFFICER POSITIONS 44
 - 7.7 – CONTINUATION OF OTHER POSITIONS 45
 - 7.8 - DECISIONS 45
- SCHEDULE A 46
- PART 8 - CSIRO SECTION 46
 - 8.1 - CSIRO SECTION 46
 - 8.2 – OPERATING AGREEMENT 46
 - 8.3 - CSIRO SECTION FUNDS & EXPENDITURE 47
 - 8.4 – SECTION OPERATIONS 48
 - 8.5 – SECTION OFFICERS 48
 - 8.6 – SUB-SECTION OFFICERS 48

8.7 – DUTIES 49

8.8 – WORKPLACE DELEGATES 49

8.9 – SUB-SECTION DELEGATES COMMITTEES 50

8.10 - SECTION ELECTIONS 50

8.11 – NOMINATIONS AND VACANCIES 50

8.12 - QUORUMS 51

8.13 - PROXIES 51

8.14 – VOTING 52

PART 9A - TAX SECTION SUPPLEMENTARY PROVISIONS 53

9A.1 - TAX SECTION 53

9A.2 – SECTION OPERATIONS 53

9A.3 – SECTION AND SUB-SECTION OFFICERS 53

9A.4 – DUTIES 53

9A.5 – SUB-SECTION DELEGATES COMMITTEES 54

9A.6 – NOMINATIONS, VACANCIES AND APPOINTMENTS 54

9A.7 – ADDITIONAL MATTERS 54

PART 9 - TAX SECTION PROVISIONS 55

9.1 - TAX SECTION 55

9.2 - SDC EXECUTIVE 55

9.3 - ELECTION TO OFFICE - ELIGIBILITY TO NOMINATE AND TO VOTE 56

9.4 - HOLDING OF MORE THAN ONE OFFICE 56

9.5 - TERMS OF OFFICE 56

9.6 - SUB-SECTION ELECTIONS 56

9.7 - VACANCIES 56

9.8 - SUB-SECTION FUNDS: EXPENDITURE 57

PART 10 – OTHER SECTIONS 57

10.1- FOOD INSPECTORIAL SECTION 57

10.2 – ABC SECTION 57

CHAPTER B - PSU GROUP - RULES

Preamble:

The Rules in this Chapter apply to the PSU Group. The Rules seek to ensure:

- the democratic control of the Union by its members;
- the effective operation of the Union;
- the protection of Union members exercising their lawful right to organise collectively;

In this Chapter:

“elected representative” includes delegates, deputy delegates, and persons elected or appointed to an office.

“member” means a member of the PSU Group

“person elected or appointed to an office” means any person elected or appointed under Part 3 of these Rules.

“Salaried Officer” means such of:

- the National Officers,
- the CSIRO Section Secretary and any CSIRO Assistant Section Secretary; and
- the ABC Section Secretary

for whom Governing Council has determined a salary;

“Union” means the PSU Group unless the context indicates otherwise.

PART 1 – GOVERNANCE

1.1 - GOVERNMENT OF THE PSU GROUP

- a. The PSU Group shall be governed by financial members by means of:
 - (i) a Governing Council;
 - (ii) an Executive Committee;
 - (iii) membership plebiscites.

- b. The Governing Council shall determine the strategic direction and objectives of the Union. A strategic plan shall be developed to achieve the direction and objectives which shall be endorsed by Governing Council and reviewed annually.

- c. In accordance with any union policy, governing bodies will:
 - (i) Be representative of the diversity of the PSU group membership; and
 - (ii) Recognise women as a majority in most workplaces and within our membership.

1.2 - GOVERNING COUNCIL - CONSTITUTION

- a. There shall be a Governing Council of the PSU Group.

- b. The Governing Council shall be constituted by:
 - (i) the National Officers;
 - (ii) the Section Secretaries;
 - (iii) the Governing Councillors;
 - (iv) any Section Presidents elected by and from the members of the Section where that Section has at least 2,000 financial members; and
 - (v) any other positions as specified in these Rules.

- c. Governing Councillors shall be elected by and from the financial members of Sections, provided that the Governing Council may allocate members of the Section to electorates for the purpose of electing the Governing Councillors of the Section.

- d. A Section shall be entitled to a Governing Councillor for the first complete 2,000 financial members and an additional Governing Councillor for each additional 1,000 financial members thereafter. Where the Section has at least 2,000 financial members and a Section President elected by and from the members of the Section, that Section shall be entitled to one less Governing Councillor. For the purpose of this paragraph and Rule 1.2 b, financial membership shall be determined as at the 30 June immediately prior to the election of Governing Councillors.

- e. A position of Governing Councillor shall become vacant if the holder resigns or ceases to be a member of the Section, or is working in a workplace outside the Section for a continuous period greater than 6 months, or in the case of a Councillor elected by a designated electorate within the Section, ceases to be a member of that electorate, or is working in a workplace outside the designated electorate for a continuous period greater than 6 months.
- f. If a member of the Governing Council cannot attend the whole or part of a Governing Council meeting, they may appoint as proxy another member of the Governing Council, or a financial member of the PSU Group from the electorate which the member of Governing Council represents. The proxy so appointed has all the powers of the member of the Governing Council represented. Such appointments shall be notified in writing to the Chair of the meeting. No member of the Governing Council may be appointed as a proxy for more than one absent member of the Governing Council at any meeting.

1.3 - GOVERNING COUNCIL - POWERS

- a. Subject to Rule 1.13 (Plebiscites) the Governing Council shall be the supreme governing body of the PSU Group.
- b. Without limiting the generality of paragraph (a), the Governing Council has the power to:
 - (i) superintend, manage and control the PSU Group's affairs, property and funds;
 - (ii) set the strategic direction and objectives of the Union;
 - (iii) endorse and annually review the strategic plan;
 - (iv) review the acts and decisions of the Executive Committee;
 - (v) determine the allocation of members to Sections;
 - (vi) establish policy for the operation of the PSU Group;
 - (vii) interpret these Rules;
 - (viii) recommend to the National Officers Committee the making, amendment or rescission of Rules in this Chapter and approve the making, amendment or rescission of Rules in Chapter A;
 - (ix) set the salaries, conditions and work location of the Salaried Officers of the PSU Group; and
 - (x) in respect of any particular matter, and without limiting any specific delegation contained in these Rules, delegate a power or task to a specified Officer of the PSU Group or a specified Committee or Council other than a power contained in the following Rules, except that where a specific power or task must be exercised by an Officer, as defined in the RAO Schedule of the Workplace Relations Act 1996, that power or task shall only be delegated to an Officer, so defined, or a Committee or Council constituted only of Officers, so defined:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
- 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
- 4.10 subscriptions
- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) **establishing a Delegate Standard.**

1.4 - GOVERNING COUNCIL - ORDINARY MEETINGS

- a. The Governing Council shall meet whenever it so decides or whenever determined by the Executive Committee, or the National Secretary. The National Secretary shall give reasonable notice of Governing Council meetings to all members of the Governing Council.
- b. At least two ordinary meetings of the Governing Council shall be held in each calendar year, at least one of which shall be in-face.
- c. In extraordinary circumstances, where it is not practicable to hold an in-face ordinary meeting of the Governing Council in a calendar year, the Governing Council may determine to remove the requirement to hold an in-face meeting in that calendar year and that a meeting be held in an alternative matter that provides Governing Councillors with a reasonable opportunity to participate.
- d. The Governing Council or failing it the National Secretary shall determine the dates and venue of all meetings of the Governing Council provided that the Executive Committee may determine that an ordinary meeting be conducted by telephone conference, video conference or other electronic means.
- e. The Executive Committee, individual members of the Governing Council, and Section Councils may submit proposals for consideration at ordinary meetings of the Governing Council. Any PSU Group member may raise with a member of the Governing Council any item for consideration as an agenda item at Governing Council meetings. All agenda proposals shall be forwarded to the National Secretary at least four weeks before the meeting.
- f. The National Secretary shall forward a copy of the agenda for ordinary meetings to each member of the Governing Council at least three weeks prior to the meeting.
- g. Notwithstanding the provisions of paragraph (d), a meeting of Governing Council held under this Rule may consider other matters not on the agenda provided that a two-thirds vote of those attending the meeting agree to consider the matter or matters.

1.5 - GOVERNING COUNCIL - SPECIAL MEETINGS

- a. A majority of members of the Governing Council may request a special meeting of the Governing Council which shall be held within twenty-eight days of receipt of such request. The members of the Governing Council, when requesting a special Governing Council meeting, shall state in writing the matter or matters for consideration at the special meeting.
- b. The Executive Committee or the National Secretary may direct that a special meeting of the Governing Council be convened to consider and determine specified matters.
- c. A special meeting of Governing Council may consider and determine any matter within the power of the Governing Council.
- d. A special meeting shall be convened by the National Secretary. Reasonable notice of a special meeting shall be given by the National Secretary. The notice shall state shortly the matter or matters to be discussed. The notice may be given by telephone, written communication delivered by hand, post, courier, facsimile or other electronic means.
- e. A special meeting of the Governing Council may be conducted by telephone conference, video conference or other electronic means.
- f. A decision made under this Rule shall have the same effect as if made under Rule 1.4.

1.6 - GOVERNING COUNCIL – OUT OF SESSION DECISIONS

- a. When the Governing Council is not in session, the Executive Committee or the National Secretary may submit to members of Governing Council for decision any matter with which the Governing Council may deal in accordance with Rule 1.3. The National Secretary shall submit to members of Governing Council such a matter for decision when so requested by a quarter of the members of the Governing Council.
- b. The matter to be determined shall be in writing and be sent by post, facsimile, other electronic means, courier or communication delivered by hand.
- c. Each member of the Governing Council shall within fourteen days of the sending of the proposal, advise the National Secretary of their vote in writing by post, hand, courier, facsimile or other electronic means, stating a simple yes or no without qualification. Proxy voting is not allowed under this Rule.
- d. The National Secretary shall count the votes progressively as they are received and when a majority is available from those entitled to vote shall declare the result of the voting by notification to members of the Governing Council.
- e. A decision given under this Rule shall have the same effect as if made under Rule 1.4.
- f. At any time up to and including the day of the notification of the decision by the National Secretary, a quarter of the members of the Governing Council can request that the matter not be considered under the provisions of this Rule. Once such a request is made, no further action shall be taken until the matter is determined by a meeting of the Governing Council held pursuant to Rules 1.4 or 1.5. A request under this paragraph is to be made in writing to the National Secretary and delivered by post, hand, courier, facsimile, or other electronic means.
- g. Nothing in this Rule shall prevent the National Secretary or the Executive Committee from convening a meeting of the Governing Council to consider a matter instead of submitting it for an out of session decision.

1.7 - GOVERNING COUNCIL - VOTING

Each member of the Governing Council is entitled to one vote at meetings of the Governing Council held under Rules 1.4 and 1.5 and in votes taken under Rule 1.6 and one additional vote if holding a proxy. In the case of a tied vote, the motion concerned shall be declared lost.

1.8 – DUTIES OF GOVERNING COUNCILLORS

- a. Governing Councillors shall:
 - (i) represent the members of their Section on Governing Council;
 - (ii) attend meetings of Governing Council or fully advise their proxy on the matters on the agenda;
 - (iii) vote on out of session motions under Rule 1.6;
 - (iv) be informed about matters and issues impacting upon the Union and consider their effect on the Union as a whole;
 - (v) assist the National Officers and Section Secretary as required in the affairs of their Section;
 - (vi) perform as required the tasks set out at Rule 2.3(e); and
 - (vii) act in a manner consistent with these Rules and the decisions and policy of the Governing Council and the Executive Committee.

1.9 - EXECUTIVE COMMITTEE - CONSTITUTION

- a. There shall be an Executive Committee of the PSU Group.
- b. The Executive Committee shall consist of not less than 5 persons, and shall be constituted by the National Officers.
- c. If a member of the Executive Committee cannot attend the whole or part of an Executive Committee meeting, they may appoint as proxy another member of the Executive Committee or any member of the Governing Council to act as their proxy at the meeting. The proxy so appointed shall have all the powers of the member of the Executive Committee represented. Such appointments shall be notified in writing to the Chair of the meeting. No member of the Executive Committee may be appointed as a proxy for more than one absent member of the Executive Committee at any meeting.

1.10 - EXECUTIVE COMMITTEE - POWERS

- a. When the Governing Council is not sitting, the Executive Committee shall, subject to paragraphs (b) and (c) of this Rule and any limitations determined by the Governing Council, exercise all powers of the Governing Council and shall be responsible for the management of the PSU Group's affairs, property and funds, including the handling of industrial disputes pursuant to Rule 2.10 and the interpretation of the Rules in this Chapter.
- b. The Executive Committee shall not exercise any of the powers of the Governing Council in relation to Rules specified herein:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
 - 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
 - 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
 - 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
 - 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
 - 4.10 subscriptions
 - 4.11 levies on members
 - 5.7 affiliation
 - 5.15 removal from office by the Governing Council
 - 5.19(k) determination of disputes
 - 5.25(a) **establishing a Delegate Standard.**
- c. The Executive Committee shall not rescind or make policy inconsistent with policy made by the Governing Council.
 - d. Except as provided in paragraphs (b) and (c) of this Rule, unless the contrary intention appears for the purpose of exercising any power, a reference in these Rules to the Governing Council shall be deemed to include the Executive Committee when the Governing Council is not sitting, and a decision of the Executive Committee shall have the same force and effect as if it were made by the Governing Council.

- e. The Executive Committee may, in respect of any particular matter, and without limiting any specific delegation contained in these Rules, delegate a power or task to a specified Officer of the PSU Group or a specified Committee or Council that is a power or task allocated by these Rules to the Executive Committee, except that where a specific power or task must be exercised by an Officer, as defined in the RAO Schedule of the Workplace Relations Act 1996, that power or task shall only be delegated to an Officer, so defined, or a Committee or Council constituted only of Officers, so defined.

1.11 - EXECUTIVE COMMITTEE - MEETINGS

- a. The Executive Committee shall meet at such times as the National Secretary determines, or when requested by three or more of its members.
- b. Proposals for consideration by the Executive Committee may be submitted to the National Secretary by members of the Executive Committee, Governing Councillors and Section Secretaries. All such proposals shall be forwarded to the National Secretary. The National Secretary shall include such proposals in an agenda for the next convenient meeting of the Executive Committee.
- c. The National Secretary shall give reasonable notice of meetings to all members of the Executive Committee. The National Secretary shall, as far as is practicable, forward to each member of the Governing Council before the commencement of an Executive Committee meeting, a copy of the agenda for the Executive Committee meeting.
- d. The Executive Committee may consider and determine any matter by post, facsimile, written communication delivered by hand or courier, telephone conference, video conference or other electronic means, when so requested by the National Secretary or at the request of half of the members of the Executive Committee. A decision so made shall have the same force and effect as if made in meeting assembled.
- e. Decisions (and any minutes) of the Executive Committee shall be notified as soon as possible to members of the Governing Council by the National Secretary.
- f. Each member of the Executive Committee shall be entitled to one vote at meetings of the Executive Committee or votes taken under the provisions of paragraph (d) and one additional vote if holding a proxy. In the case of a tied vote, the motion concerned shall be declared lost.

1.12 - EXECUTIVE COMMITTEE – REVIEW

- a. Governing Council may review any decision of the Executive Committee. The process shall be as set out in this Rule.
- b. A Governing Council member seeking review shall notify the National Secretary in writing of that fact within 30 days of the decision being made. The National Secretary shall then forward the request for review to Governing Council members.
- c. If one quarter of Governing Council members confirm within 14 further days that they seek a review, then the National Secretary shall either forward the decision to an out of session vote of Governing Council in accordance with the provisions of Rule 1.6, or call a special meeting of the Governing Council to consider the matter.
- d. Any decision taken by the Executive Committee shall have effect unless and until Governing Council decides otherwise, and no action taken by the Executive Committee prior to a review by Governing Council shall be considered without power in any way.

1.13 – PLEBISCITES

- a. The Governing Council or the Executive Committee may obtain the opinion of members of the PSU Group or any combination of the members of the PSU Group on any question by submitting it to a plebiscite of the relevant financial members.
- b. Subject to paragraph (c), the Executive Committee shall, if the National Secretary is requested in writing by 5 percent of the financial members of the PSU Group, obtain the opinion of financial members on any question by plebiscite. A request for a plebiscite pursuant to this paragraph shall be in the form of an affirmative question and shall be accompanied by an objective statement of the facts and arguments in support of the question.
- c.
 - (i) When a request is received pursuant to paragraph (b), it shall be submitted to a special meeting of the Governing Council to be held within 30 days of receipt of the request by the National Secretary. Should the question be agreed to by the Governing Council, the decision shall be put into effect forthwith.
 - (ii) Should the question be determined in the negative by the Governing Council, it shall thereupon be referred to a plebiscite of financial members, provided that the Governing Council may determine that several plebiscites shall be conducted by a single ballot of financial members.
 - (iii) The Executive Committee on behalf of the Governing Council shall prepare an objective statement of the arguments against the question to accompany the question and statement in support.
- d. The arrangements for the taking of a plebiscite under paragraphs (a) or (b) shall be made by the Executive Committee at the Union's expense.
- e. The Executive Committee shall appoint a Returning Officer and such Assistant Returning Officers and Scrutineers as it deems necessary.
- f. In a plebiscite, the Returning Officer shall issue to each financial member, with the ballot paper, the statements prepared both for and against the proposal.
- g. Voting by proxy is not permitted in a plebiscite.
- h. Assistant Returning Officers shall count the ballot and immediately
 - (i) inform the Returning Officer of the tally; and
 - (ii) forward all ballot papers received to the Returning Officer.
- i. The Returning Officer shall declare the final result of the ballot as a whole in writing to the National Secretary. The National Secretary shall be responsible for ensuring the result is conveyed to members.
- j. Any question put pursuant to any provision of this Rule shall be determined by a simple majority.
- k. When a question is carried in the affirmative by plebiscite it shall be put into effect forthwith.
- l. Where a question put to a plebiscite is lost, a question substantially the same in substance or effect, may not be resubmitted to plebiscite within a period of two years from the declaration of a ballot, provided that this provision shall not preclude the Governing Council from submitting any question to plebiscite at any time.

PART 2 – OPERATIONS

2.1 – OPERATIONS OF THE PSU GROUP

- a. The PSU Group will operate through means of:
 - (i) Workplace Delegates, Deputy Delegates, Representatives and Contacts;
 - (ii) Organising Committees;
 - (iii) membership consultation and meetings;
 - (iv) Section Councils (where established) and Section Executives (where established); and
 - (v) the Executive Committee
- b. The PSU Group will be assisted in its operations by:
 - (i) National Officers;
 - (ii) Section Secretaries; and
 - (iii) staff appointed by the National Secretary
- c. In accordance with any union policy, operational bodies will:
 - (i) Be representative of the diversity of the PSU group membership; and
 - (ii) Recognise women as a majority in most workplaces and within our membership.

2.2 – WORKPLACES

- a. The Governing Council shall allocate members into workplaces. A workplace shall consist of such members as are determined from time to time by the Governing Council, taking into account any recommendation of a relevant body or officer.
- b. Elected Delegates and Deputy Delegates, and Workplace Representatives and Contacts, shall assist the Union to organise and represent workers in the workplace.

2.3 - WORKPLACE DELEGATES

- a. A workplace may elect a Delegate, and may also elect a Deputy Delegate. The Executive Committee may determine that specified workplaces shall have more than one Delegate and/or Deputy Delegates. In this Rule, a reference to a Delegate includes a Deputy Delegate, except where the context requires otherwise.
- b. A Delegate shall work with and assist the relevant officers and staff of the PSU Group:
 - (i) to represent and protect the industrial interests of workers;
 - (ii) to organise workers; and
 - (iii) to further and protect the industrial interests of the Union.
- c. A Deputy Delegate shall assist the Delegate.
- d. A Delegate shall also help co-ordinate the activities of any Deputy Delegates, Workplace Representatives or Contacts in the workplace.

- e. A Delegate, **acting in accordance with the Delegate Standard**, may carry out any lawful task authorised by the Union or these Rules, which includes but is not limited to the following authorised tasks:
 - (i) distributing authorised Union publications and bulletins to workers;
 - (ii) calling and conducting meetings of members and workers;
 - (iii) recruiting workers to join the Union;
 - (iv) canvassing the workers to identify matters of concern;
 - (v) acting as a representative or witness for a member in a workplace matter;
 - (vi) meeting with relevant management representatives;
 - (vii) putting authorised Union publications on Union notice boards; and
 - (viii) organising workers to participate in lawful action authorised by the Union.
- f. The Union shall as far as practicable provide such training and assistance to Delegates as is necessary to ensure that they can comply with relevant legislation and Union policy, and to enable them to perform their functions professionally and competently. It is expected that Delegates shall attend such training.
- g. The process for electing a Delegate will be as determined by the Governing Council. The term of office of a Delegate will, unless determined otherwise by the Governing Council, be 1 year.
- h. The position of Delegate shall lapse if a Delegate ceases to be a member of the Union or leaves the workplace that elected him or her for a continuous period of greater than 3 months. The workplace may elect, if it chooses to do so, a replacement Delegate for the remainder of the term using the same process as for the election of the Delegate.
- i. A Delegate may be removed by a majority vote of a meeting of members in the workplace.
- j. The National Secretary shall keep a list of all elected Delegates.

2.4 - WORKPLACE REPRESENTATIVES

- a. A workplace shall have as many Workplace Representatives as are credentialed and authorised from time to time by the Governing Council in accordance with Union policy.
- b. A Workplace Representative will provide the same assistance as set out in Rule 2.3(b) and may carry out the same functions as set out in Rule 2.3(e).
- c. The Union shall as far as practicable provide such training and assistance to Workplace Representatives as is necessary to ensure that they can comply with relevant legislation and Union policy, and to enable them to perform their functions professionally and competently. It is expected that Workplace Representatives shall attend such training.
- d. Once authorised as a Workplace Representative, a member shall be a Workplace Representative for any workplace in which the member is employed.
- e. Authorised Workplace Representatives shall be re-credentialed each year by the Governing Council. The views of the members of the workplace as are available will be taken into account when re-credentialing Workplace Representatives.
- f. A Workplace Representative may request that they be removed from the list of authorised Workplace Representatives and such request shall be complied with as soon as practicable.

- g. A Workplace Representative shall be removed from the list of authorised Workplace Representatives by the Governing Council if they cease to be a member of the Union, where the Workplace Representative has failed to comply with Union policy or acted contrary to the **Delegate Standard** or a decision or direction of a relevant body or official, by a majority vote of a meeting of members in the workplace, or where they are not re-credentialed in accordance with paragraph (e).
- h. The National Secretary shall keep a list of all authorised Workplace Representatives.

2.5 – WORKPLACE CONTACTS

- a. Members may be recognised by the Governing Council as Workplace Contacts. A Workplace Contact will help to further and protect the industrial interests of the Union and its members by assisting the Union to distribute authorised Union publications to workers in the workplace. Authorised Union publications shall be publications produced pursuant to Rule 5.13.
- b. A Workplace Contact may also assist to arrange meetings of workers when requested.

2.6 - ORGANISING COMMITTEES

- a. In accordance with any relevant policy, the Union may establish Organising Committees in an agency, a workplace or group of workplaces (within an agency or across agencies) as are necessary from time to time to:
 - (i) provide advice to the National Secretary and relevant officers and staff of the Union on particular workplace matters;
 - (ii) assist the Union to organise the agency or workplace(s);
 - (iii) assist in the conduct of particular campaigns and/or
 - (iv) provide a forum for the consideration of matters of particular interest to a grouping of Union members (including but not limited to occupational or regional interests).
- b. All of the relevant Section Secretaries, Governing Councillors, Workplace Delegates and Representatives from the agency, workplace or group of workplaces (as the case may be) shall be entitled to participate in any Organising Committee along with such members as are interested and necessary for the efficient and effective operation of the Organising Committee.
- c. An Organising Committee shall act in accordance with Union policy and decisions of the Governing Council and the Executive Committee.
- d. Organising Committees dealing with a particular matter will normally be expected to cease operating once the matter with which they are dealing has been finalised.
- e. Any Organising Committee may be disbanded by the Governing Council.

2.7 – MEMBERSHIP INVOLVEMENT

- a. The National Secretary will ensure that the views of affected members are the primary consideration in determining:
 - (i) industrial disputes affecting those members;
 - (ii) bargaining in the workplace;
 - (iii) all industrial action proposed to be taken by affected members; and
 - (iv) industrial situations or other matters of concern affecting the workplace.

- b. The views of such members will be determined through meetings and/or such other means (including but not limited to petitions, surveys and polling) as are practicable and convenient and which maximise participation.

2.8 – WORKPLACE MEETINGS

- a. A meeting of members in a workplace may be convened by a National Officer, Section Secretary, Section Councillor, Governing Councillor, Delegate, Deputy Delegate or Workplace Representative giving reasonable notice to members and stating briefly the matter(s) to be discussed.
- b. There shall be no quorum for meetings held under this Rule. Any resolution proposed for consideration at the meeting by a National Officer, Section Secretary, Section Council or Organising Committee shall not lapse for want of a mover at the meeting.
- c. Only financial members shall be entitled to vote at any meeting held under these Rules.

2.9 – MEETINGS IN MORE THAN ONE WORKPLACE

- a. Where an industrial situation or other matter of concern requires consideration by members in a number of different workplaces, the National Secretary may convene meetings of members to consider the matter. Reasonable notice shall be given. The nature of the industrial situation or other matter shall be specified in the notice.
- b. Where meetings of members or of a specified portion of members are held in a number of locations under the provisions of paragraph (a) or pursuant to a direction of the Executive Committee to consider a proposed resolution, the meeting shall be convened in accordance with this Rule. Any proposed resolution shall be voted on without alteration, addition or deletion, and the number of votes cast for and against shall be advised to the National Secretary forthwith.
- c. Resolutions will be carried by a simple majority of votes cast and the resolution will be binding on the PSU Group and all members subject to the resolution.
- d. There shall be no quorum for meetings held under this Rule and any resolution shall not lapse for want of a mover at the meeting.

2.10 – INDUSTRIAL DISPUTES AND REPRESENTATION

- a. A member may submit in writing an issue arising from the member's employment or membership to the Union for attention. A Section Secretary, Governing Councillor, Delegate or Workplace Representative, or a Section Council or Organising Committee, may submit a matter of concern arising from the employment of workers to the Union for attention.
- b. The National Secretary may take up an industrial matter with the appropriate employer(s). The Union shall be represented by a representative or representatives appointed by the National Secretary.
- c. The National Secretary may authorise a Section Secretary, Governing Councillor, Delegate or Workplace Representative, or a Section Council or Organising Committee to carry out lawful tasks and action to assist in resolving the industrial matter.

- d. The National Secretary on the authority of the Governing Council or the Executive Committee may submit an industrial dispute relating to the PSU Group to conciliation and/or arbitration and/or any other necessary resolution process. The Executive Committee shall transact all business and do or authorise all acts in connection with the dispute including entering into an agreement in settlement of a dispute.
- e. The Union shall be represented at the hearing of a dispute by a representative or representatives appointed by the National Secretary.
- f. All industrial and other agreements and documents may be executed by a National Officer, or other person(s) authorised for the purpose by the Executive Committee.

2.11 – NATIONAL OFFICERS

- a. The National Officers shall be a National Secretary, a National President and an Assistant National Secretary. The Governing Council may determine that there be a second Assistant National Secretary, who shall also be a National Officer. The Governing Council may also determine that there be one or two Deputy National Presidents and one or more Deputy Secretaries, who shall also be National Officers.
- b. All National Officers shall be Salaried Officers.
- c. A National Officer shall be under the day to day direction of the National Secretary with respect to their duties, but not with respect to any vote that they might exercise on any decision making body.
- d. Subject to Rule 2.13, in the absence or unavailability of a National Officer for any period, the Executive Committee may appoint a financial member of the Union to act in place of the National Officer and exercise all the functions and powers of the National Officer. Any member so acting shall not lose any other office held within the Union merely because they are so acting.

2.12 - DUTIES OF NATIONAL SECRETARY

- a. The National Secretary shall be the Executive Officer of the PSU Group and, subject to the direction of the Governing Council, shall be responsible for the effective administration and operation of the PSU Group. The National Secretary shall do all things necessary to further and protect the industrial interests of the PSU Group and its members.
- b. Without limiting the generality of paragraph (a), the National Secretary shall:
 - (i) ensure that decisions of Governing Council are implemented;
 - (ii) develop the strategic plan to achieve the directions and objectives of the Union;
 - (iii) prepare a budget each year for the operations of the Union consistent with the strategic plan;
 - (iv) provide a “state of the Union” report to each meeting of Governing Council, including the participation of women representatives at all levels of the Union;
 - (v) determine the work allocation of the Salaried Officers;
 - (vi) appoint and direct such staff as are necessary to assist the PSU Group conduct its affairs, and fix the salary, remuneration, duties and delegated responsibilities of such staff ;
 - (vii) attend meetings of Governing Council and the Executive Committee and participate in votes taken by such bodies;
 - (viii) perform as required the tasks set out at Rule 2.3(e).

2.13 - DUTIES OF ASSISTANT NATIONAL SECRETARY

- a. Subject to any relevant decision of the Governing Council, an Assistant National Secretary shall:
- (i) render such assistance as may be required by the National Secretary in the administration and operation of the PSU Group;
 - (ii) attend meetings of the Governing Council and the Executive Committee or fully advise his or her proxy on the matters on the agenda;
 - (iii) vote on out of session motions under Rule 1.6 and matters under consideration under Rule 1.11(d);
 - (iv) act in a manner consistent with these Rules and the decisions and policy of the Governing Council and the Executive Committee;
 - (v) perform as required the tasks set out at Rule 2.3(e); and
 - (vi) carry out such other duties as directed.
- b. In the absence or unavailability of the National Secretary for any period, the Assistant National Secretary will act in place of the National Secretary and exercise all the functions and powers of the National Secretary. If there is more than one Assistant National Secretary, the Executive Committee shall appoint one of them to so act.
- c. In the absence of an Assistant National Secretary to act in the place of the National Secretary the Executive Committee may appoint a financial member of the PSU Group to act in place of the National Secretary and exercise all the functions and powers of the National Secretary. Any member so acting shall not lose any other office held within the PSU Group merely because they are so acting.

2.14 - DUTIES OF NATIONAL PRESIDENT

- a. Subject to any relevant decision of the Governing Council, the National President shall:
- (i) render such assistance as may be required by the National Secretary in the administration and operation of the PSU Group;
 - (ii) attend meetings of the Governing Council and the Executive Committee or fully advise his or her proxy on the matters on the agenda;
 - (iii) vote on out of session motions under Rule 1.6 and matters under consideration under Rule 1.11(d);
 - (iv) when present, chair meetings of the Governing Council and the Executive Committee and, in accordance with the Rules of debate, superintend the discussion of questions tabled for consideration and preserve order so that business can be conducted in due form and with propriety;
 - (v) cause minutes of the meetings referred to in sub-paragraph (iv) to be kept, and sign the minutes once they are confirmed;
 - (vi) act in a manner consistent with these Rules and the decisions and policy of the Governing Council and the Executive Committee;
 - (vii) perform as required the tasks set out at Rule 2.3(e); and
 - (viii) carry out such other duties as directed.

2.15 - DUTIES OF DEPUTY NATIONAL PRESIDENTS

- a. Subject to any relevant decision of the Governing Council, a Deputy National President shall:
- (i) render such assistance as may be required by the National Secretary in the administration and operation of the PSU Group;
 - (ii) attend meetings of the Governing Council and the Executive Committee or fully advise their proxy on the matters on the agenda;
 - (iii) vote on out of session motions under Rule 1.6 and matters under consideration under Rule 1.11(d);
 - (iv) act in a manner consistent with these Rules and the decisions and policy of the Governing Council and the Executive Committee;
 - (v) perform as required the tasks set out at Rule 2.3(e); and
 - (vi) carry out such other duties as directed.
- b. In the absence or unavailability of the National President, a Deputy National President shall act in the place of the National President and exercise all the functions and powers of the National President. If there is more than one Deputy National President the Executive Committee shall appoint one of the Deputy National Presidents to so act, or if there are no Deputy National Presidents, the Executive Committee shall appoint another member of the Executive Committee to so act.

2.16 - DUTIES OF DEPUTY SECRETARIES

- a. Subject to any relevant decision of the Governing Council, a Deputy Secretary shall:
- (i) render such assistance as may be required by the National Secretary in the administration and operation of the PSU Group;
 - (ii) attend meetings of the Governing Council and the Executive Committee or fully advise their proxy on the matters on the agenda;
 - (iii) vote on out of session motions under Rule 1.6 and matters under consideration under Rule 1.11(d);
 - (iv) act in a manner consistent with these Rules and the decisions and policy of the Governing Council and the Executive Committee;
 - (v) perform as required the tasks set out at Rule 2.3(e); and
 - (vi) carry out such other duties as directed.

2.17 - NATIONAL OFFICER CESSATION

The office of any National Officer shall become vacant if the holder resigns, ceases to be a member of the PSU Group or is removed from that office under Rule 5.15.

2.18 – ATTENDANCE OF NATIONAL OFFICERS AT MEETINGS

A National Officer may, subject to the Rules, attend and speak at any meeting held under the Rules.

2.19 - SECTIONS

- a. To ensure the efficient and effective organising of members, the Governing Council shall from time to time allocate the membership of the PSU Group into Sections (including Sub-Sections where necessary) consisting of those members of the PSU Group irrespective of their residence or location who have a common interest.
- b. No member shall belong to more than one Section.

- c. A decision of the Governing Council to form or abolish a Section shall have regard to such advice as to the views of members affected as is available.
- d. Where as a result of abolition, amalgamation or other significant alteration in the structure of an employing authority the basis for the constitution of a Section or Sub-Section under this Rule is significantly varied, the Governing Council may determine that the Section or Sub-Section no longer exists and the tenure of all holders of office within the Section or Sub-Section shall thereupon terminate. The Governing Council shall forthwith determine new arrangements for the representation of members of the former Section including the acting appointment of office holders pending the declaration of an election held under the provisions of Part 3 to fill the positions.

2.20 - SECTION SECRETARIES

- a. There shall be a Section Secretary for each Section. Subject to any relevant decision of the Governing Council the Section Secretary shall be under the direction of the National Secretary and shall:
 - (i) assist the relevant National Officers to manage the affairs of their Section;
 - (ii) represent the members of their Section on Governing Council;
 - (iii) attend meetings of Governing Council, or ensure that they properly credential a proxy and fully advise their proxy on the matters on the agenda;
 - (iv) vote on out of session motions under Rule 1.6;
 - (v) be informed about matters and issues impacting upon the Union and consider their effect on the Union as a whole;
 - (vi) act in a manner consistent with these Rules and the decisions and policy of the Governing Council and the Executive Committee;
 - (vii) perform as required the tasks set out at Rule 2.3(e); and
 - (viii) inform the National Secretary of any absences of Section Council members and any resulting temporary arrangements.
- b. A position of non-salaried Section Secretary will become vacant if the holder resigns or ceases to be a member of the Section, or is working in a workplace outside the Section for a continuous period greater than 6 months.
- c. In the absence or unavailability of a Section Secretary for any period, the Section Council (or the Executive Committee where there is no Section Council having regard to such views of the members of the Section as is available) may appoint a financial member of the relevant Section of the Union to act in the place of the Section Secretary and exercise all functions and powers of the Section Secretary.

2.21 – SECTION OPERATIONS

- a. To assist and provide advice to the Section Secretary, members in a Section may establish a Section Council should they wish to do so. The process will be as determined by the Governing Council. Subject to anything contained elsewhere in these Rules, Section Councils shall operate in accordance with any policy determined by the Governing Council and the provisions of this Rule.
- b. Section Council will consist of the Section Secretary, any other Section Officers, the Governing Councillors representing the Section and Section Councillors, as well as any Salaried Officer responsible for the Section.

- c. The members of the Section shall elect as many Section Councillors as are approved for the Section by the Governing Council. The Governing Council shall take into account the number of members and workplaces in the Section, geographic distribution and other communities of interest in determining the number of Section Councillors, as well as the views of the Section Secretary. The Governing Council may group Section members into sub-section electorates for the purpose of electing Councillors.
- d. The duties of a Section Councillor shall be to attend meetings of Section Council and participate in its deliberations, represent the members of their Section or Section electorate at Section Council, and assist the Section Secretary of the effective operation of the Section. Section Councillors shall also perform as required the tasks set out at Rule 2.3(e).
- e. A Section Council may determine its own method of operation, subject to these Rules, and should operate with the minimum necessary formalities.
- f. A position of Section Councillor shall become vacant if the holder ceases to be a member of the electorate that elected him or her, or leaves the electorate that elected him or her for a continuous period of greater than 3 months.
- g. The Section Council shall meet whenever it so determines or upon the direction of the Governing Council, the Executive Committee, the National Secretary or the Section Secretary. Reasonable notice of meetings shall be given to each member of the Section Council by the Section Secretary.
- h. A Section Council shall refer any matter concerning members of the Union generally to the Governing Council, the Executive Committee or the National Secretary.
- i. A Section Council must not act contrary to decisions of Governing Council, the Executive Committee, or a National Plebiscite, or act in breach of policy in any matter which has been determined by the Governing Council or Executive Committee.
- j. A Section Council (or other body within the Section) shall not institute legal proceedings unless with the approval of the Governing Council or the Executive Committee.
- k. Members in a Section may establish such sub-sections as are deemed necessary and as are approved by the Governing Council. These may be specific to an agency within the Section. The structures and operations of the sub-section will be as approved by the Governing Council and must not be inconsistent with the operations of the Section as prescribed by this Rule.
- l. To assist and provide advice to the Section Secretary in the management of the affairs of a Section that has a Section Council, the Governing Council may determine that there be a Section Executive.
- m. A Section Executive shall consist of the Section Officers and Governing Council may determine such other positions that shall be members of the Section Executive as necessary.
- n. A Section Executive shall determine its own method of operation provided it is not inconsistent with the provisions of the Rules.

2.22 - DUTIES OF SECTION OFFICERS

- o. The Section Officers shall be the Section Secretary and may, subject to Governing Council approval, include:
 - (i) a Section President.
 - (ii) a Deputy Section President or more as determined by the Governing Council.
 - (ii) an Assistant Section Secretary or more as determined by the Governing Council.
- p. Governing Council may allocate members of a Section to electorates for the purpose of electing Deputy Section Presidents.
- q. In the absence of the Section Secretary in respect of any period the Section Secretary or the Section Council determines, an Assistant Section Secretary shall act in the Section Secretary's stead and exercise all the functions and powers of the Section Secretary.
- r. In the absence or unavailability of an Assistant Section Secretary to act in the Section Secretary's stead:
 - (i) the Section Council may appoint a financial member of the Section to act in the Section Secretary's stead and exercise all the functions and the powers of the Section Secretary.
 - (ii) the Section Council may appoint a financial member of the Union to act in the salaried Section Secretary's stead and exercise all the functions and the powers of the Section Secretary.
- s. A Section Officer position will become vacant if the holder resigns or ceases to be a member of the Section, or is working in a workplace outside the Section for a continuous period greater than 6 months.

2.22 - DUTIES OF SECTION OFFICERS

- a. Subject to any direction of the Section Council, an Assistant Section Secretary shall be under the direction of the Section Secretary and shall render such assistance as may be required in the operations of the Section and perform as required the tasks set out at Rule 2.3(e).
- b. A Section President shall if present preside at all meetings of the Section Council and Section Executive and perform the duties of the Chair as specified in Rule 5.10, and shall render such other assistance to the Section Secretary as may be required and perform as required the tasks set out at Rule 2.3(e).
- c. A Deputy Section President shall assist the Section President in the exercise of their duties and in the absence of the Section President perform all the duties of the Section President and shall render such other assistance to the Section Secretary as may be required and perform as required the tasks set out at Rule 2.3(e). Should there be more than one Deputy Section President, the Section Council shall select one of them to act in the place of the Section President.
- d. The duties of a Section Executive Member shall be to attend meetings of the Section Executive and shall render such other assistance to the Section Secretary as may be required and perform as required the tasks set out at Rule 2.3(e).

PART 3 - ELECTIONS AND APPOINTMENTS

3.1 - ADVICE TO INDUSTRIAL REGISTRAR

The National Secretary shall within the time provided in the Workplace Relations Act 1996 and the regulations made under that Act advise the Industrial Registrar of elections required to be conducted in the PSU Group, with a view to ensuring that no irregularity occurs in or in connection with the election.

3.2 - APPOINTMENT OF RETURNING OFFICER

If for any reason the Industrial Registrar pursuant to Rule 3.1 does not arrange for the conduct of an election, the Executive Committee shall appoint a Returning Officer and such Assistant Returning Officers as it considers necessary to conduct the election.

3.3 - DUTIES OF RETURNING OFFICER

- a. Returning Officers and Assistant Returning Officers shall be financial members of the Union but shall not be holders of any other office in the Union or, except in the case of elections conducted under Rule 2.3, be employed by the Union.
- b. Returning Officers, Assistant Returning Officers and Scrutineers in any election held under these Rules shall do all things necessary to preserve the secrecy of the ballot and to ensure the proper and regular conduct of the ballot as prescribed by these Rules.
- c. If a Returning Officer conducting an election finds a nomination to be defective the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the member the opportunity to remedy the defect within seven days of the member being notified of the defect. If the defect is not remedied the Returning Officer must reject the nomination.
- d. If no more than the requisite number of valid nominations is received for any office, the Returning Officer shall declare the members nominated to be elected to such position.
- e. A Returning Officer for each election conducted under these Rules shall, on the conclusion of the counting of votes, declare the result of the election in a written report to the National Secretary or Section Secretary on such election. This report shall include full details of the conduct, the voting and the result of the election.

3.4 - ELIGIBILITY TO NOMINATE AND VOTE

- a. Only members who are financial at the closing of nominations for any election for any office shall be eligible to nominate or be nominated for any office within the PSU Group.
- b. Only members who are financial at the day on which the roll of voters for any election is closed shall be entitled to vote in that election.
- c. The roll of eligible voters shall be closed 7 days before the day on which nominations open for the particular election, and the roll shall be produced in electronic form.
- d. National Officers shall be elected by and from the members of the PSU Group.

- e. Governing Councillors shall be elected by the members of the relevant Section or Section electorate as determined by Governing Council.
- f.
 - (i) Salaried Section Secretaries shall be elected by the members of the relevant Section of the PSU Group, from the members of the PSU Group;
 - (ii) All other Section Secretaries shall be elected by and from the members of the relevant Section of the PSU Group.
- g. Section Councillors shall be elected by and from the members of the Section or Section electorate to be represented.
- h. Any Assistant Section Secretary, any Section President and any Deputy Section President shall be elected by and from the members of the Section Council, or by and from the members of the Section, as determined by the Governing Council.
- i. Section Executive Members shall be elected by and from the Section Council.
- j. A person is not eligible to nominate in the same election for more than one of the following positions:
 - (i) National Secretary
 - (ii) Assistant National Secretary
 - (iii) National President
 - (iv) Deputy National President
 - (v) Deputy Secretary;
 - (vi) a salaried Section Officer position.
- k. Notwithstanding the provisions of any other Rule to the contrary and except as provided by this Rule, no member shall be nominated for, elected to or hold office or position in the PSU Group if he or she is or becomes a member of any other registered organisation whose eligibility Rules include any area of employment specified in Rules 2 and 3 of Chapter A.
- l. A member of the PSU Group who is employed by the ABC and who is or becomes a member of another registered organisation whose eligibility Rules include employment by the ABC and which also has an award covering members in the ABC shall be eligible to be nominated for, elected to, or hold any position within the ABC Section.
- m. A salaried employee of the Union shall be eligible to nominate for election to, but not hold any office within the PSU Group, provided that any such employee resigning their employment with the Union on or after the declaration of the poll and prior to the commencement of the term of office, shall be entitled to hold such office.

For the purpose of this paragraph a person is not a salaried employee of the Union merely by reason that:

 - (i) a person holding an office accepts paid secondment to work for the Union on a specific task for a period not exceeding 6 months, the terms of which secondment are duly authorised by decision of the Executive Committee;
 - (ii) a person holding an office is in receipt of a salary or reimbursement of salary in respect of performance of the functions of the office held or of relieving an Officer for a period approved in accordance with the Rules.
- n. The provisions of paragraph (m) shall not apply to the position of Workplace Delegate or Deputy Delegate, in that a salaried employee of the Union may hold those positions.

3.5 - NOMINATIONS

- a. The Returning Officer shall call for nominations by notice which shall be given in a PSU Group publication published not later than 21 days prior to the close of nominations, or in relation to any collegiate election not later than 14 days prior to the close of nominations, provided that where eligibility to nominate for a particular position is restricted to a particular group of members the Returning Officer may call for nominations by a notice published to that group of members only.
- b. Nominations for National Officer, Governing Councillor, Section Secretary and, Section Councillor positions, and any Section Officer positions elected by Section members, shall be lodged with the Returning Officer not later than 12.00 noon on the last Wednesday in September in the year of election.
- c. Nominations for Section Officers elected by Section Councils and Section Executive Members shall be lodged with the Returning Officer not later than 12.00 noon on the last Wednesday in March in the year of the election.
- d. Nominations shall be signed by two financial members of the relevant electorate of the PSU Group and by the person nominated.

3.6 - NOMINATIONS - WITHDRAWAL

Nominations for any election under the Rules may not be withdrawn after the close of nominations.

3.7 – TEAM NOMINATIONS

- a. In an election for National Officers a group of eligible members may run as a Team.
- b. Each member of a Team must nominate individually for the office they seek. Their nomination must be in accordance with Rules 3.4 and 3.5.
- c. A Team must submit a Team proposal. A Team proposal may be submitted separately from the nominations of individual Team members. A Team proposal is only valid if it:
 - (i) is in writing;
 - (ii) includes a Team name;
 - (iii) includes a member for each National Officer position where nominations have been called; and
 - (iv) is signed by each Team member.
- d. A Team proposal can include a contact person for the Team.
- e. Where it has been determined pursuant to Rule 2.11(a) that there will be more than one Assistant National Secretary, Deputy National President or Deputy Secretary, the Team proposal must indicate the ballot paper order of its candidates for these positions by writing “ballot position 1” and “ballot position 2” on the Team proposal next to the candidates names. Otherwise, the internal Team ballot order will be determined by the drawing of lots.
- f. The name of a Team must not be the same as another Team, or be deceptive in any way.
- g. Where the name of a Team uses the name of one of the members of the Team, the first and last name of the candidate must be used. A Team cannot use as its name the name of any candidate in the election who is not a member of the Team.
- h. In determining which Team may use a name (which is not a candidate's name) regard is to be had to all relevant factors including the history of use of the name in question.

- i. If the name of a Team is the same as another Team, or the Returning Officer believes it deceptive in any way, the Returning Officer must approach the Teams concerned and have the Teams make such changes as are necessary to remedy the situation. The Returning Officer will take into account the matters in paragraph h. The Returning Officer may refuse to accept a Team proposal where the situation is not remedied.
- j. A candidate may not be a member of more than one Team.
- k. In the event of a withdrawal by a member of a Team prior to nominations closing, the person who has withdrawn can be replaced by another eligible person who is not a member of any other Team, and who consents to becoming a member of the Team. In such an event, the replacement nomination must be received by the close of nominations.
- l. The discovery of a candidate's ineligibility will not affect the validity of the election of any other member of a Team of which that candidate is a member, nor will it lead to the rejection of a Team proposal or in any way affect the nomination of the other members of the Team.

3.8 - BALLOT PROCEDURES - GENERAL

- a.
 - (i) If no more nominations for election to a position are received than the number of such positions available, the Returning Officer must immediately declare the person or persons nominated elected to the position.
 - (ii) If more nominations for election to a position are received than the number of such positions available, a ballot must be conducted by the Returning Officer.
- b. Unless otherwise specified in these Rules, a secret postal ballot shall be utilised for all elections to be conducted under this Part for any position to be filled by a direct voting system. A declaration envelope as defined in the Workplace Relations Act 1996 must be used in every election conducted by secret postal ballot.
- c. "Postal ballot" means a ballot for the purposes of which a ballot paper is to be sent by prepaid post to each person entitled to vote and facilities are to be provided for the return of the completed ballot paper by post by the voter without expense to the voter.
- d. Unless otherwise requested by the member, ballot papers shall be posted to the home address of the member as listed in the records of the PSU Group.
- e. A member eligible to vote who shall be away from their place of employment or normal postal address recorded on the PSU Group's records during the polling period may apply in writing to the relevant Returning Officer, prior to the despatch of ballot papers, and a ballot paper shall be sent to the address specified by the voter prior to the closing of the ballot. For the vote to be accepted, it must be received by the Returning Officer prior to the closing of the ballot.
- f. A Returning Officer, at any election under these Rules, shall initial each ballot paper before it is issued.
- g. When the Returning Officer is required to forward ballot papers to voters, they shall be forwarded at least fourteen days before the closing date of the ballot, or such longer period as the Executive Committee may decide.
- h. Non-receipt of ballot paper by any member shall not necessarily invalidate an election.
- i. Except as set out in rule 3.8 j, the position of all candidates' names on the ballot paper must be determined by drawing lots.

- j. If there is at least one Team for National Officer positions:
 - (i) Team members will appear first on the ballot paper, the position of the Teams to be determined by drawing lots. The ballot order of Team members must reflect the order on the Team proposal in accordance with rule 3.7(e).
 - (ii) The name of the Team must appear in brackets immediately after the name of the candidate.
 - (iii) The names of individual candidates who are not Team members will then appear after the Team names, the position of individual candidates to be determined by drawing lots.
 - (iv) In all other respects, the ballot paper will be the same as for other offices.
- k. The provisions of sub-rules (i) and (j) do not apply to elections for casual vacancies and new positions. For such elections there shall be a ballot paper on which the team nomination (if any) of any candidate/s shall appear adjacent to the candidates name.
- l. Appropriate instructions on how to complete the ballot paper must be included on, or forwarded with, the ballot paper.

3.9 - BALLOT PROCEDURES - COLLEGIATE ELECTIONS

- a. In all elections conducted under a collegiate electoral system the procedures in this Rule shall be observed.
- b. The Executive Committee shall determine whether the secret ballot shall:
 - (i) take place at the next meeting of the body constituting the college; or
 - (ii) be conducted as a postal ballot.
- c. Where the Executive Committee has determined that the ballot shall be conducted in accordance with paragraph (b)(ii) the Executive Committee shall fix a time and date for the close of the ballot.
- d. Nominations shall be lodged with the relevant Returning Officer.
- e. Any member of the college who is unable to be present at the holding of a ballot held in accordance with paragraph (b)(i) may apply in writing to the Returning Officer for a ballot paper and may deliver or post such ballot paper so as to reach the Returning Officer prior to the closing of the ballot.
- f. At the conclusion of the counting of the votes in any postal ballot, the Returning Officer shall declare the successful candidate or candidates elected to the National Secretary. The National Secretary shall cause the report of the Returning Officer to be notified to the members of the college as soon thereafter as practicable.
- g. At the conclusion of the counting of the votes in any ballot held at a meeting of the college, the Returning Officer shall declare the successful candidate or candidates elected at the meeting at which the ballot is held if possible or if not as soon thereafter as practicable.

3.10 – METHOD OF VOTING

- a. Voting shall be on the preferential system, as detailed in this Rule and Rules 3.11 and 3.12, in all elections under these Rules.
- b. The voter shall vote by marking on the ballot paper the numbers 1, 2 and so on as the case requires opposite at least the same number of candidates as there are positions to be filled.

- c. Notwithstanding any other Rule, voting by proxy shall not be permitted.

3.11 - COUNTING OF VOTES - ELECTION OF ONE CANDIDATE ONLY

Where one candidate only is to be elected the Returning Officer shall observe the following procedure to determine the successful candidate:

- a. A candidate who receives more than half the number of first preference votes cast shall be the successful candidate.
- b. Should no candidate be successful on the first count, the candidate who receives the least number of first preference votes shall be excluded from the count and the candidate's second preference votes shall thereupon be distributed among the remaining candidates. A candidate then receiving more than half the total number of votes cast shall thereupon be the successful candidate.
- c. The above procedure shall be continued until one candidate has received the requisite number of votes to become the successful candidate.
- d. If on any count two or more candidates each receive the same number of votes the Returning Officer shall decide by lot which candidate shall remain in the count.

3.12 - COUNTING OF VOTES - ELECTION OF MORE THAN ONE CANDIDATE

Where two or more candidates are to be elected the Returning Officer shall observe the following procedure to determine the successful candidate:

- a. The votes shall be classified into two categories as follows:
 - (i) The preference votes to the number of vacancies to be filled shall be termed "primary" votes, and shall have equal value in the first count and be credited to the candidate for whom they are cast, whether marked 1, 2, 3, etc., according to the number of vacancies;
 - (ii) The preference votes beyond those referred to in (i) shall be termed "secondary" votes and shall have rank according to their numerical number and shall be allocated in rank order unless the ranking secondary vote has been previously allocated.
- b. The primary votes shall first be counted and a list shall be prepared of the candidates in order according to the primary votes cast for them. The candidate who is lowest on the list thus compiled shall be excluded from the count.
- c. Each ballot paper on which such excluded candidate received a primary vote shall then be examined to determine its secondary vote and the preference so found shall be allotted to the appropriate unexcluded candidate on the first count.
- d. On the conclusion of the second count, the above procedure or exclusion of candidates from the count and the distribution of their secondary votes shall continue until the required number of successful candidates has been determined.
- e. If, in any count, the next available preference vote of an excluded candidate is cast in favour of an excluded candidate, such preference vote shall be disregarded and the next available preference vote cast in favour of a remaining candidate shall be added to the votes credited to that candidate.
- f. If, in any count, two or more candidates each receive the same number of votes and one of them has to be excluded, the Returning Officer shall decide by lot which candidate shall remain in the count.

3.13 - SCRUTINEERS

A candidate in any election under these Rules may appoint a financial member or members of the PSU Group, other than a candidate at the election, as scrutineer or scrutineers. Any scrutineer may attend all stages of the election and shall abide by any directions of the Returning Officer during such attendance.

3.14 - VACANCIES

- a. When a vacancy occurs for any reason in an office the vacancy shall be filled by election under the provisions of this Part, except as provided in paragraphs (c) and (d) of this Rule.
- b. Such nominations shall only be called once in any calendar year and the closing date for such nominations shall be 12.00 noon on the last Wednesday in September.
- c. If a casual vacancy occurs in an office and the remainder of the term of office is less than 12 months:
 - (i) the Governing Council shall appoint a financial member of the PSU Group to a vacant National Officer position;
 - (ii) the Section Council (or Executive Committee where there is no Section Council having regards to such views of the members of the Section as is available) shall appoint a financial member of the Section to a Governing Council vacancy, or in the case of a position elected from an electorate within the Section, the Section Council shall appoint a financial member of the relevant Section electorate to the Governing Council vacancy;
 - (iii) the Section Council (or the Executive Committee where there is no Section Council, having regard to such views of the members of the Section as is available) shall appoint a financial member of the PSU Group to a salaried Section Secretary vacancy;
 - (iv) the Section Council (or the Executive Committee where there is no Section Council having regard to such views of the members of the Section as is available) shall appoint a financial member of the Section to a vacancy of Section Secretary that is not salaried;
 - (v) the Section Council shall appoint a financial member of the Section to a Section Councillor vacancy; and
 - (vi) the Section Council shall appoint a financial member of the Section to an Assistant Section Secretary, Section President or Deputy Section President vacancy.
- d. A vacancy occurring in a Assistant Section Secretary, Section President, or Deputy Section President position not dealt with under subrule (c) shall be filled as follows:
 - (i) For positions elected by and from Section Council, vacancies will be filled by the Section Council at its next meeting after nominations have closed;
 - (ii) For positions elected by and from the members of the Section, vacancies will be filled as for Section Secretaries.
- e. The person so elected or appointed under paragraph (a), (c) or (d) above shall hold office for the unexpired portion of the term of office.
- f. Pending the filling of a vacancy under paragraph (a), the relevant body may appoint an eligible member in accordance with the criteria listed in paragraph (c) to act in the vacant position.

3.15 - FILLING OF NEW POSITIONS

Where between elections the number of offices in the PSU Group is increased, or where an entitlement to representation on any body comes into existence, the additional office or offices shall be filled as though they were vacancies under the provisions of this Part.

3.16- FIXING OF MINIMUM SALARIES & LOCATION OF SALARIED OFFICERS

The minimum salaries and work location of Salaried Officers shall be fixed by Governing Council before nominations are called for.

3.17 - TERM OF OFFICE - CERTAIN OFFICES

- a. The term of office for National Officers, Governing Councillors, Section Secretaries, Section Councillors and any Section Officers elected by Section members shall be three years from the 1st of January in the year immediately following their election.
- b. The term of office for any Assistant Section Secretary, any Section President, any Deputy Section President or any Section Executive Member shall be:
 - (i) if elected by and from the members of the Section, the same as for a Section Secretary;
 - (ii) if elected by and from the Section Council, 3 years from the 1st of July in the year immediately following the election of the Section Secretary.

3.18 – HOLDING OF MORE THAN ONE POSITION

- a. If a candidate is successful in more than one ballot and is not eligible to hold simultaneously all such positions, or where a person accepts an appointment to a position and is not eligible to hold simultaneously a position already held, the person shall be deemed to be the successful candidate for, or to hold, only the higher or highest of such positions.
- b. In the counting of votes for any lower position a successful candidate for a higher position shall be the first to be eliminated from the ballot for the lower position and their votes allocated in accordance with the preference shown (if any) on such votes.
- c. A National Officer may not hold any office within a Section.
- d. A person is not eligible to hold simultaneously more than one of the offices listed herein and the higher or highest position shall be ascertained from the following table:
 - (i) National Secretary
 - (ii) Assistant National Secretary
 - (iii) National President
 - (iv) Deputy National President
 - (v) Deputy Secretary
 - (vi) Salaried Section Secretary
 - (vii) Section Secretary

- (viii) Governing Councillor
 - (ix) Section Councillor
- e. Where a person already holds a lower position on the table in paragraph (d) at the time of the declaration of the ballot or the appointment to a higher position, the person shall be deemed to have resigned the lower position, and the vacancy created shall be filled in accordance with these rules.

3.19 - RETENTION OF BALLOT PAPERS

All ballot papers, envelopes, lists and other documents used in connection with, or relevant to an election under these Rules, and not otherwise kept by the Returning Officer, shall be preserved and kept at the registered office of the PSU Group for a period of one year after the completion of the election.

3.20 - ELECTION APPEALS

- a. Any member who is either a voter or a candidate at an election under these Rules may appeal against the result of such election.
- b. Such appeal shall be in writing and shall set out the grounds of the appeal and shall reach the National Secretary at any time during the conduct of the ballot and up to fourteen days after the declaration of the result of the election.
- c. With the appeal shall be lodged a deposit of \$100 which shall be returned to the depositor unless the Election Appeals Committee considers the appeal was not made on reasonable grounds.

3.21 - ELECTION APPEALS COMMITTEE

- a. The Governing Council on receiving an appeal in respect of an election shall appoint an Election Appeals Committee of three members of the Governing Council to hear and determine the appeal.
- b. The National Secretary shall, within seven days from the appointment of the Election Appeals Committee, convene a meeting of members of that Committee.
- c. The members of the Committee shall appoint one of their number as Chair.
- d. Each member of the Committee shall exercise one vote.
- e. At the hearing of the appeal the appellant and any member whose election is challenged shall be entitled to give and call evidence on their own behalf and to question any person giving evidence and to request the production of documents relating to the election. Hearings of the Election Appeals Committee may be held by telephone or video conference.
- f. The committee shall decide the appeal in one of the following three ways:
 - (i) by dismissing the appeal;
 - (ii) by setting aside the result appealed against and declaring another member or members elected;
or
 - (iii) by directing the Returning Officer to conduct a new election for the office or offices concerned.
- g. The decision of the Committee shall be notified by its chair to the Governing Council, the National Secretary and all parties concerned.

- h. Subject to the provisions of the Workplace Relations Act 1996 the decision of the Election Appeals Committee shall be final and not subject to appeal.
- i. The provisions of Rules 3.20 and 3.21 do not apply to any election conducted through the Industrial Registrar.

3.22 - FORFEITURE OF OFFICE

- a. A member who holds any office or position in the PSU Group thereof shall at all times be a financial member.
- b. An office or position held by a member who is unfinancial shall be deemed to have become vacant and to be a casual vacancy created at the expiration of two calendar months from the date on which such member became unfinancial should they not become a financial member within that period.
- c. Notwithstanding the foregoing provisions the business of a meeting shall not necessarily be invalid, if otherwise in conformity with these Rules, by reason only of the fact that an unfinancial member voted at such meeting.

3.23 - ELECTION ADVERTISING AND COMMENT

- a. Free Space for Election Candidates
 - (i) Where there is more than one candidate for a position of National Officer they shall be entitled to free space in the National Journal or other PSU Group publication to put forward their claims for election.
 - (ii) Where there is more than one candidate for any position on Governing Council, other than those positions dealt with in Rule 3.23(a)(i), they shall be entitled to free space in a relevant PSU Group publication to put forward their claims for election.
 - (iii) Where candidates are entitled to free space in a journal or other publication, equal space shall be made available, the order within the publication to be determined in ballot paper order.

- b. Advertising by Candidates

Except as is provided in paragraph (a) above no PSU Group publication shall publish any advertisement on behalf or in support of any candidate for a position in a PSU Group election.

- c. Right to Reply

If any item submitted for publication in an edition of any official PSU Group publication published between the calling of nominations in an election and the closing date for voting in the election comments on any other candidate directly or indirectly that article shall not be accepted for publication unless:

- (i) a copy of the item is sent to the candidate or candidates commented on in the article at least 7 days prior to the closing date for acceptance of items for the publication; and
- (ii) the candidate or candidates commented on are given reasonable space to reply in the same publication in which the original comment is published.

- d. Where there is more than one candidate for any position on Governing Council candidates shall be entitled to have a statement of up to 250 words distributed with the ballot paper. Where candidates are entitled to a statement, equal space shall be made available, the order within the document to be determined in ballot paper order.
- e. Statements and material provided under sub-rules (a) and (d) shall comply with the following:
 - (i) All statements shall be provided to the relevant body no later than 14 days after the close of nominations;
 - (ii) Statements will not include any photos, pictures or diagrams, except that statements provided under sub-rule (a) may include a photo of the candidate.
 - (iii) Statements may only include personal details, employment history, policy details and the candidate's claims for election.

PART 4 – FINANCIAL

4.1 - FINANCIAL YEAR

The financial year of the PSU Group shall end for all purposes on the 30th June.

4.2 - PSU GROUP FUNDS AND PROPERTY

The PSU Group Funds and Property shall consist of:

- a. any real or personal property of which the Governing Council of the PSU Group, 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 to custody, control or management;
- b. any monies paid to the PSU Group by way of membership subscriptions, levies, rents, or by members in respect of levies or fines imposed by the Governing Council or donations from any source;
- c. any interest, rents, dividends, or other income derived from the investment or use of such funds and property;
- d. any superannuation, long-service leave or annual leave or other fund operated or controlled by the PSU Group as a whole in accordance with these Rules for the benefit of its officers or employees;
- e. any sick pay fund, accident fund, insurance fund, funeral fund or like fund operated by the PSU Group as a whole in accordance with these Rules for the benefit of its members;
- f. any property acquired wholly or mainly by expenditure of the monies of such funds and property or derived from other assets of such funds and property;
- g. any and all intellectual property of the PSU Group, which includes any contractual rights which may exist in relation to any innovation or work, and all statutory and other proprietary rights (including rights to require information be kept confidential) in respect of inventions, patents, trade marks, designs, copyright, know-how, trade secrets, and all other rights with respect to intellectual property including all rights to apply for the same and, for the avoidance of doubt, including copyright in works and sound recordings and broadcasts vesting by virtue of the Copyright Act 1968 (Cth.);

- h. the proceeds of any disposal of parts of such funds and property; and
- i. with effect from 1 July 2001:
 - (i) all funds, property and liabilities under the superintendence, management and control of any Branch, Section or the Professional Division as at 30 June 2001; and
 - (ii) all income derived from any source which is receivable on or after 1 July 2001

4.3 - RECEIPT OF MONIES

- a. All monies received by the Union, or income derived from any source receivable shall be remitted forthwith to the Governing Council and promptly deposited into a PSU Group account designated by the Executive Committee.
- b. All monies received in respect of Union owned buildings and premises shall be remitted forthwith to the Governing Council and the Governing Council shall pay all accounts in respect of such buildings.

4.4 - EXPENDITURE OF PSU GROUP FUNDS

- a. PSU Group Funds may only be expended in furthering the Union's Objects.
- b. Disbursements in regard to expenditure of PSU Group Funds may be made against the authority of a resolution of the Governing Council or Executive Committee, or upon the recommendation of the National Secretary and the approval of a National Officer authorised for that purpose with a copy of any such approval to be provided to the Accounting Officer for inclusion in the statement of receipts and expenditure for the period in which it occurred.
- c. Payment of all accounts for expenditure authorised in accordance with paragraph (b) shall be made from such account as the Governing Council or the Executive Committee may from time to time direct:
 - (i) by cheque signed by two persons, at least one of whom is a National Officer or an officer of the PSU Group delegated by the Executive Committee to sign cheques, and one of whom may be an employee authorised by the Executive Committee, to sign cheques; or
 - (ii) by a system of funds transfer approved by the Executive Committee.
- d. The Accounting Officer shall provide regular statements of receipts and expenditure to the Executive Committee and Governing Council.

4.5 - INVESTMENTS

- a. The PSU Group Funds and Property held by the Governing Council shall be for the benefit of members generally.
- b. The Governing Council or Executive Committee shall have the power to invest the whole or part of such PSU Group Funds or Property and to vary such investments.

4.6 - LOANS, GRANTS AND DONATIONS

- a. A loan, grant or donation of an amount exceeding \$1,000 shall not be made by the PSU Group, unless the Executive Committee or the Governing Council:
 - (i) has satisfied itself:
 - (a) that the making of the loan, grant or donation would be in accordance with the other Rules of the PSU Group; 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.

4.7 - ACCOUNTING OFFICER

- a. The Accounting Officer for the purpose of the Workplace Relations Act 1996 shall be the National Secretary or, if the Executive Committee so determines, a National Officer.
- b. The Accounting Officer shall:
 - (i) maintain a detailed account of all money transactions;
 - (ii) keep the books of account regularly posted and produce all books, vouchers and documents to the Executive Committee, National Auditor or National Secretary when required;
 - (iii) attend audit meetings at the request of the National Auditor and supply all information required;
 - (iv) provide regular statements of receipts and expenditure to the Executive Committee and Governing Council;
 - (v) prepare the statements of account required by the Workplace Relations Act 1996.

4.8 - STATEMENT OF ACCOUNTS

- a. The PSU Group shall prepare and present statements of account in accordance with the provisions of Chapter 8 of Schedule 1B of the Workplace Relations Act 1996 (“the Schedule”). Terms used in this Rule shall have the same meaning as the term is used in the Schedule.
- b. The Executive Committee may determine that a concise report for the financial year be provided free of charge to each member. A copy of the full report will be provided to each member of the Governing Council.
- c. Subject to paragraph (d), the full report for a financial year shall be presented to the Executive Committee.
- d. At the conclusion of each financial year, where 5% of the members of the PSU Group call for a general meeting to receive the full report, the full report shall be presented to a general meeting. Such a general meeting shall be dealt with in accordance with this paragraph.

- (i) The petition shall state “We the undersigned PSU Group members call for a general meeting of members to receive the full financial report for the last ending financial year”.
 - (ii) The petition shall be addressed to the National Secretary, and must be signed and dated by each signatory, and must also include the membership number of each signatory.
 - (iii) So that proper notice can be given to members, and so that the general meeting can be held within the time periods prescribed by the Schedule, the petition must be received by 1 December, or 21 days after the provision to members of the report required by s.265(1), whichever is the later.
 - (iv) The general meeting shall be held in Sydney. The National Secretary shall advise all members of the time and place by notice published on the PSU Group website and in workplace bulletins.
 - (v) There shall be no quorum for the general meeting.
 - (vi) To avoid doubt, a general meeting can only be held to receive the full financial report for the last ending financial year.
- e. If the Industrial Registrar has issued a certificate stating that the Reporting Units shall be other than the PSU Group, then:
- (i) references in this Rule to the Executive Committee shall be taken to be references to the management committee of the respective Reporting Units;
 - (ii) references in this Rule to the National Secretary shall be taken to be references to the Secretary of the respective Reporting Units.
 - (iii) references in this Rule to members of the PSU Group shall be taken to be references to the members of the respective Reporting Units; and
 - (iv) in all respects the terms of this Rule (Rule 4.8) shall be applied to those Reporting Units.

4.9 – ANNUAL BUDGET

- a. The National Secretary shall prepare a budget for the operation of the PSU Group consistent with the strategic plan, for approval by the Executive Committee.
- b. Notwithstanding the provisions of paragraph (a), an Operating Agreement existing as at 30 December 2004 may authorise a Section Secretary to prepare a budget for the operation of the Section, for approval by the Executive Committee. Where that has occurred, the respective Section Council shall be responsible for the expenditure of any funds allocated in accordance with that budget, subject always to overriding control by resolution of the Governing Council.

4.10 - SUBSCRIPTIONS

- a. Membership subscriptions shall be determined from time to time by the Governing Council.
- b. Subscriptions shall be fixed on a fortnightly basis, provided that Governing Council may also fix rates for subscriptions paid other than on a fortnightly basis.
- c. All subscriptions received shall be paid to the Governing Council.

4.14 - PAYMENT OF FINES

- d. In the case of members who sign and present to the PSU Group, at the time of application for membership, an authority for deduction from an account held with a financial institution or from salary, liability for payment shall commence on the date of the first deduction effected.
- e. For members whose subscriptions are not deducted from an account held with a financial institution or from salary, liability for payment shall commence on the first pay day immediately following admission to membership.
- f. Any member shall be entitled to pay subscriptions annually in advance. Such a member shall not be liable to pay any increase in subscriptions in relation to the period of advance payment, which was approved after the payment was made.

4.11 - LEVIES ON MEMBERS

- a. The Governing Council may impose levies upon members as provided in paragraphs (b) and (c) after consideration of reports on the decisions of meetings of members on a proposal for such levy.
- b. A levy may be set at different amounts for members in different salary ranges.
- c. A levy may be imposed on:
 - (i) all members;
 - (ii) all members in a designated occupational grouping or groupings; or
 - (iii) all members in designated Sections or Sub-Sections.
- d. Such levies shall be deposited into a PSU Group account designated by the Executive Committee.

4.12 - SUBSCRIPTIONS & LEVIES WAIVER

- a. The Executive Committee shall have power to waive subscriptions and levies in whole or in part payable by a member for any period during which the member:
 - (i) is absent from their employment on leave without pay; or
 - (ii) satisfies the Executive Committee that the payment of such subscriptions would involve significant personal hardship.
- b. Notwithstanding the above, the Executive Committee may determine additional policy to apply in relation to the waiver of subscriptions and levies in whole or in part.

4.13 - HONORARIA

The Governing Council may determine from time to time an amount to be paid as an honorarium to any member for services rendered.

4.14 - PAYMENT OF FINES

A fine must be paid by a member to the National Secretary within thirty days of the date of notification to the member of the imposition of such fine.

4.15 - RECOVERY OF SUBSCRIPTIONS

The National Secretary is empowered to sue on behalf of and in the name of the Union for monies owing by members.

4.16 - APPOINTMENT OF AUDITORS

The Executive Committee shall appoint, annually or whenever a casual vacancy occurs, as National Auditor and Auditor of designated Sections which have not appointed under delegation a separate Auditor, a person having the qualifications prescribed from time to time in the Workplace Relations Act 1996 and the Regulations thereunder, and such person shall have full and complete access to all books and documents of the PSU Group and relevant Sections.

4.17 - EXPENDITURE IN RELATION TO MEETINGS

Where a meeting is to be held under these Rules and holding the meeting in person would involve significant travel and related expenses, the meeting shall be conducted by telephone conference, video conference, other electronic means or any other method by which members participating in the meeting are able to communicate with each other, unless the expenditure for holding the meeting in person is approved in accordance with the provisions of these Rules.

PART 4A - FINANCIAL DISCLOSURE AND TRAINING OBLIGATIONS FOR THE PSU GROUP

4A.1

Group and CSIRO Sections officers are subject to the financial disclosure, policy, and training obligations in the Fair Work (Registered Organisations) Act.

4A.2

Group and CSIRO Section officers will comply with these requirements.

- a. **office** has the same meaning as defined by section 9 of the Fair Work (Registered Organisations) Act 2009.
- b. **officer** has the same meaning as defined by section 6 of the Fair Work (Registered Organisations) Act 2009.

4A.3

In addition to the disclosure obligations imposed by the Act, and without limiting those obligations in any way:

- a. The disclosure obligations are also obligations owed by officers under these rules.
- b. Where the disclosure obligations impose on an officer of the Group an obligation to disclose a matter to the Group, the National Secretary must keep a written record of the disclosure.
- c. Where the disclosure obligations impose on an officer of the CSIRO Section an obligation to disclose a matter to the CSIRO Section, the CSIRO Section Secretary must keep a written record of the disclosure, and shall forward to the National Secretary a written record of the disclosure.

4A.4

The written record forwarded to the National Secretary shall be made within one month of the disclosure to the Branch, or immediately if requested by the National Secretary.

PART 5 – ADMINISTRATION

5.1 - ADMISSION

- a. Applications for membership of the PSU Group shall be approved by the Executive Committee. Upon approval of the application for admission (or re-admission) the applicant shall be enrolled as a member, shall be liable for payment of subscriptions and shall be informed in writing of the approval of their membership.
- b. A membership form shall be approved by the Executive Committee and shall contain the approved privacy statement. Applicants for membership shall use the approved form.

- c. Applicants for membership shall be informed in writing of:
 - (i) the financial and other obligations of membership; and
 - (ii) the circumstances, and the manner, in which a member may resign from the Union.

5.2 - FINANCIAL MEMBER

- a. A financial member is one who at the date of determining their financiality is no more than thirty days in arrears.
- b. A member who has not paid subscriptions and amounts in accordance with paragraph (a) shall be an unfinancial member until the requirements of paragraph (a) have been met.
- c. Subject to these Rules a person who has been admitted to membership and for whom the Union has received a signed authority for the ongoing deduction of subscriptions from an account held with a financial institution or from salary or from another financial source, shall be deemed to be a financial member as from the date they are admitted as a member, provided that any subscription not deducted or otherwise outstanding at any time shall continue to be due and may be recovered from the member in accordance with these Rules. If at any time an employing authority suspends or terminates the deduction of subscriptions from salary, the member shall cease to be deemed to be financial

5.3 - RESIGNATION OF MEMBERSHIP

- a. A member of the Union may resign from membership by written notice addressed and delivered to the National Secretary or relevant Section Secretary.
- b. A notice of resignation from membership of the Union takes effect:
 - (i) where the member ceases to be eligible to be a member of the Union:
 - (a) on the day on 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 ceases to be eligible to be a member;

whichever is 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 a day specified in the notice

whichever is later.

- c. Any subscriptions, fines or levies owing to the Union but not paid by a former member of the Union, in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the Union, in a court of competent jurisdiction, as a debt due to the Union.
- d. A notice delivered for the purposes of paragraph (a) shall be taken to have been received by the Union when it was delivered.
- e. A notice of resignation that has been received by the Union is not invalid because it was not addressed and delivered in accordance with paragraph (a). A resignation from membership of the Union is valid even if it is not effected in accordance with this Rule if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.

5.4 - FORFEITURE

Any unfinancial member who continues to be unfinancial for the thirty days immediately following the date on which he or she became unfinancial shall, if the Executive Committee passes a resolution to that effect, cease to be a member and forfeit all rights of membership as from a date determined by the Executive Committee. The Executive Committee shall only exercise power under this Rule if the member remains unfinancial after being notified in writing at their last known address of their unfinanciality and the intention of the Executive Committee after 14 days notice to forfeit their membership if they remain unfinancial.

5.5 - RE-ADMISSION TO MEMBERSHIP

An applicant for re-admission to membership shall not be enrolled as a member until he or she has paid any subscriptions and other moneys due at the date of cessation of membership.

5.6 - LIABILITY OF FORMER MEMBERS

Any person who ceases to be a member shall remain liable for all moneys owing by him or her to the Union at the time of ceasing to be a member unless the Executive Committee releases him or her in whole or part from such liabilities.

5.7 - AFFILIATION

Only the Governing Council may approve the affiliation of the PSU Group or any grouping of its members with any organisation or body.

5.8 - QUORUMS

- a. At meetings of any Council or Committee held under these Rules, a quorum shall be a majority of its members or their proxies.
- b. If within half an hour from the time appointed for the commencement of any meeting to be held under these Rules a quorum of members is not present, the meeting shall lapse.
- c. Where any member present at a meeting holds a proxy in accordance with these Rules, that proxy shall also be counted in determining the quorum for the meeting.

5.9 – RULES OF DEBATE

The Rules of Debate for meetings held under this Chapter shall be determined by Governing Council.

5.10 – CHAIR OF MEETINGS

- a. Except as provided for elsewhere in these Rules, any meeting of a Council or Committee shall elect a member of the Council or Committee to be the Chair of the meeting. Councils and Committees may elect a Chair for a specified term determined by the Council or Committee.
- b. At a meeting of members, the meeting shall elect a person to be the Chair.
- c. The Chair shall preside at the meeting(s) and in accordance with the Rules of debate shall superintend the discussion of questions tabled for consideration, and shall preserve order so that business can be conducted in due form and with propriety.
- d. The Chair of any Council or Committee shall cause minutes of the meeting to be kept, and upon the minutes being confirmed shall sign them. The Chair of any other meeting shall keep a record of any motion moved and carried.

5.11 - LIFE MEMBERSHIP

- a. The Governing Council may elect to Life Membership any member who has rendered special or valuable services to the Union, on the recommendation of the Executive Committee, a Section Council, or a member of the Governing Council.
- b. A Life Member shall thereupon become entitled, without payment of any subscriptions or other moneys, to all the privileges of a financial member other than the right to be nominated for, elected to or hold office in the PSU Group unless they are otherwise eligible for membership of the Union in accordance with Part 1 of Rule 2 of Chapter A.
- c. The Governing Council may, for sufficient cause, cancel such Life Membership.

5.12 - SERVICE AWARD

The Governing Council may confer a Meritorious Service Award on any member or former member who has rendered long or special services to the Union. The Governing Council may confer a Meritorious Service Award on any member or former member on the recommendation of the Executive Committee, a Section Council, or a member of the Governing Council.

5.13 – PUBLICATIONS AND BULLETINS

- a. The PSU Group will publish an annual report. In addition, an official PSU Group journal or journals may be published by the Executive Committee and shall be the official organ(s) of the PSU Group.

- b. The Executive Committee or the National Secretary, or a person authorised for the purpose by the Executive Committee or the National Secretary, may authorise other journals, bulletins, surveys, petitions, newsletters, forms or other publications for distribution, including by electronic means, to specific membership groupings.

5.14 - DISMISSAL OF ELECTED OFFICERS

Notwithstanding anything elsewhere contained in these Rules no person elected to an office within the PSU Group shall be dismissed from that office unless the person has been found guilty, in accordance with the Rules of the Union, of misappropriation of the funds of the Union, a substantial breach of the Rules of the organisation or gross misbehaviour or gross neglect of duty or has ceased, according to the Rules of the Union, to be eligible to hold the office.

5.15 - REMOVAL FROM OFFICE BY GOVERNING COUNCIL

- a. The Governing Council, if two-thirds of its members present and entitled to vote so decide, may at any time remove from office any ~~officer elected or appointed~~ person elected or appointed to an office under these Rules who has:
- (i) Misappropriated the funds of the PSU Group.
 - (ii) Committed a substantial breach of the Rules.
 - (iii) Been found guilty of gross misbehaviour or gross neglect of duty.
- b. Any such person shall be given twenty-one days' notice in writing by the National Secretary or National President of the charge and of the time and place of the meeting at which the charge is to be dealt with, and shall be entitled to be heard on his or her own defence before any motion for removal is put.

5.16 - “NO CONFIDENCE” MOTIONS

- a. A motion of “no confidence” in a ~~an Officer~~ person elected or appointed to an office may be moved at a meeting of Governing Council or Section Council provided that:
- (i) notice of such motion was given at a previous meeting.
 - (ii) notice of intention, including the substantial details of the allegation, are given in writing to the officer at least 21 days prior to the meeting.
 - (iii) the ~~Officer~~ person elected or appointed to an office is given adequate time and opportunity to reply to the allegation at the meeting.
- b. A motion of “no confidence” shall be carried only if the votes of two-thirds of those present and entitled to vote, are cast in favour.

5.17 – APPEALS TO GOVERNING COUNCIL

- a. Any member may appeal to the Governing Council against any action or decision of the Executive Committee, a PSU Group Officer or a PSU Group employee which affects the member's rights or privileges as a member of the Union.
- b. The appeal shall be forwarded to the National Secretary. It shall be in writing and must state the decision or action appealed against and the rights or privileges affected by the decision or action.

- c. The National Secretary shall forward a copy of the appeal to the relevant Officers, and shall obtain reports from the relevant Officers as to the material circumstances concerning the appeal, and make such other enquiries as are necessary. All such enquiries and reports shall be completed within 21 days of the receipt of the appeal by the National Secretary.
- d. After having considered the relevant material the National Secretary shall provide a report and a recommendation to the Governing Council concerning the appeal.
- e. Should the appeal relate to any action or decision of the National Secretary, references in paragraphs (b) to (d) shall be read as references to the National President.

5.18 - DISPUTES AND CHARGES

- a. The following are offences with which a member may be charged under this Rule.
 - (i) misappropriation of the funds of the Union.
 - (ii) a substantial breach of the Rules of the Union.
 - (iii) gross misbehaviour or gross neglect of duty.
 - (iv) an infringement of the Union's Rules, resolutions, or directions lawfully given.
- b. A member may lay a charge, ~~within 28 days of the occurrence of the alleged offence~~, against any other member alleging that member has been guilty of one or more of the offences mentioned in paragraph (a).
- ~~e.~~ Any such charge shall be in writing, ~~accompanied by a deposit of \$100~~, signed by the member laying the charge and shall be delivered to the National Secretary. ~~The deposit shall be retained by the National Secretary until the charge is finally dealt with.~~
- d. Within 7 days of receiving such charge, the National Secretary shall forward the original charge to the Chair of the Disputes Tribunal and forward a copy to the member charged.
- ~~e.~~ The Executive Committee may instruct the National Secretary or another National Officer to lay a charge on its behalf against a member. ~~The provisions of paragraph (c) as to a deposit shall not apply to such a charge.~~
- f. A charge must, in order to be valid, state clearly the nature of the offence alleged, the date or dates of the occurrence of the offence alleged and must also contain particulars of the alleged facts on which the charge is based.
- g. As soon as a charge is laid under this Rule, no discussion of the matter shall take place at any meeting held under these Rules until such time as the charge is finally dealt with.
- ~~h.~~ ~~Notwithstanding paragraph (b), a charge against an officer alleging an offence of the kind set out in subparagraphs (i) to (iii) of paragraph (a) may be laid by a member at any time. If an alleged offence would constitute non-compliance with the Delegate Standard, the National Secretary may deal with the charge under rule 5.25 instead of the process under this rule.~~
- i. Should a charge be laid against the National Secretary, references in paragraphs (c) and (d) shall be read as references to the National President.

5.19 - DISPUTES TRIBUNALS

- a. Disputes Tribunals of 3 members shall be appointed from time to time by the Executive Committee for the purposes of hearing charges under Rule 5.18. Where a member of a Disputes Tribunal is a person who is subject to a charge under Rule 5.18 then that person shall not be a member of the Tribunal that determines the charge.
- b. The Disputes Tribunal shall be reimbursed by the Executive Committee for all necessary out of pocket expenses.
- c. The Disputes Tribunal may, subject to these Rules, establish its own procedures. Hearings of the Disputes Tribunal may be held by telephone or video conference.
- d. Any member charged shall be entitled to be represented at any hearing of the Disputes Tribunal by any other member of the PSU Group but not otherwise.
- e. A Disputes Tribunal, may after consideration of the charge made, conclude that there is no case to answer and accordingly dismiss the charge without holding any hearing.
- f. In the event of the Tribunal finding that there is a prima facie case to answer, it shall proceed to hear the charge and afterwards notify its recommendation in writing as soon as practicable to the member charged, the member laying the charge and the National Secretary or National President.
- g. Any member charged shall attend at a time and place fixed by members of the Disputes Tribunal.
- h. No member shall be required to attend before a Disputes Tribunal without receiving reasonable travel expenses and compensation for loss of pay.
- i. If the Disputes Tribunal considers that a member is guilty of the charge alleged under Rule 5.18, **it may issue the member with a formal warning or** it may recommend to the Governing Council one or more of the following:
 - ~~(i) — imposition of a fine not exceeding \$250; or~~
 - (i) deprivation of any right of membership for any specified period not exceeding six months; or
 - (ii) removal of the member from any office or position if any of the offences set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- j. The member charged may, within 21 days of the forwarding of the Disputes Tribunal recommendation, provide a written response to the National Secretary.
- k. Not earlier than the expiration of the 21 day period as provided in paragraph (j), the National Secretary shall submit the recommendation of the Disputes Tribunal, and any response from the member charged, to the Governing Council for determination under Rule 1.4, 1.5 or 1.6.
- ~~l. — After the Governing Council has dealt with the recommendation, the Disputes Tribunal shall direct the National Secretary to either refund the deposit to the member laying the charge or pay the deposit into the PSU Group's funds.~~

5.20 - VALIDITY OF ACTS

Notwithstanding anything contained elsewhere in the Rules of this Chapter any act done, resolution passed, business transacted or ballot conducted at the Governing Council, the Executive Committee, or a Section Council shall not, if otherwise in conformity with the Rules of this Chapter, be invalid by reason only of the fact that a member or members may not have representation on the relevant body through an electorate determined under these Rules.

5.21 - DELEGATION OF POWERS

- a. The National Secretary shall maintain a schedule of operative delegations made under these Rules and shall provide such schedule to each National Officer, Governing Councillor and Section Secretary. and any financial member of the PSU Group upon request.
- b. In determining to make delegations the Governing Council or Executive Committee shall have regard to, but not be limited by:
 - (i) the most administratively appropriate arrangements;
 - (ii) the objective of minimising any duplication of responsibilities;
 - (iii) the size and any special factors relating to the specific Section; and
 - (iv) the provisions of the Workplace Relations Act 1996.

5.22 - REGISTER OF MEMBERS

The PSU Group shall keep a register of its members and shall keep all other records as are required to be maintained by Organisations under the Workplace Relations Act 1996, in the manner and at the place prescribed by the Act and Regulations.

5.23 - STAFF BARRED FROM APPOINTMENT AS PROXY

Notwithstanding that she or he may be a financial member of the Union no salaried employee of the Union shall be appointed as proxy for any office holder of the PSU Group.

5.24 – MINUTE BOOK TO BE KEPT

Minute books of meetings of the Governing Council, the Executive Committee and the CSIRO Section Council shall be kept and shall record the proceedings of and resolutions of meetings of the Governing Council, the Executive Committee and the CSIRO Section Council.

5.25 DELEGATE STANDARD

- a. **Governing Council may establish a Delegate Standard to impose standards of conduct on elected representatives.**
- b. **Governing Council may establish procedures for managing complaints and dealing with breaches of the Delegate Standard that are consistent with this rule.**

- c. Governing Council may establish a Standards Committee made up of at least 3 Governing Council members.
- d. Elected representatives must comply with the Delegate Standard.
- e. A member may make a complaint about an elected representative to the National Secretary if the member believes that the elected representative has not complied with the Delegate Standard.
- f. The National Secretary may dismiss a complaint without investigation if:
 - i. The complaint, if proven, would not constitute a breach of the Delegate Standard, or
 - ii. The complaint is vexatious, frivolous, unreasonable or malicious.
- g. Any decision to dismiss a complaint will be in writing setting out the reasons for the decision.
- h. The National Secretary may initially attempt to resolve the complaint informally through discussion, mediation or other processes.
- i. If the above processes are not appropriate or fail to resolve the complaint, an investigation may be done by the National Secretary. An independent investigator may be appointed where appropriate.
- j. Following the investigation, a report will be provided to the Standards Committee which may include recommendations.
- k. The Standards Committee will:
 - i. Review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Delegate Standard, and
 - ii. If the conduct does constitute a breach, determine an appropriate sanction.
- l. Sanctions for breach of the Delegate Standard may include:
 - i. A formal warning,
 - ii. Deprivation of the rights attaching to membership for a specified period up to 6 months, or
 - iii. Removal from office - only if any of the grounds set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- m. The person who is the subject of the complaint must be afforded procedural fairness throughout this process.
- n. The National Secretary will, as far as practicable, give effect to the sanction determined by the Standards Committee.
- o. The National Secretary may remove a deputy delegate or delegate from their elected position in accordance with this process.
- p. The removal of a Section Councillor, Section Officer, Governing Councillor or National Officer may only proceed with a two-thirds majority support vote of Governing Council in accordance with rule 5.15.
- q. The National Secretary may delegate their powers and responsibilities under this rule, other than the power in paragraph (n), to another National Officer or staff member of the PSU Group.

- r. If a complaint relates to the National Secretary, references to the National Secretary in this rule should be read as references to the National President.

PART 6 – MATTERS RELATING TO SPECIFIC SECTIONS

Schedule A sets out matters relating to specific Sections.

PART 7 – TRANSITIONAL PROVISIONS

The provisions contained in this Part shall prevail to the extent of any conflicting provisions in the Rules of Chapter B

7.1 - CONTINUATION OF CERTAIN OFFICE HOLDERS

- a. The holder of an Office or position listed in Column 1 below as at the day before the certification of these Rules shall occupy the corresponding Office or position listed in Column 2 on and from the date of certification of these Rules until the end of the current term of office specified in Column 3 provided the holder of the Office remains eligible to hold the position in accordance with these Rules.

Column 1	Column 2	Column 3
National Secretary	National Secretary	31 December 2005
Assistant National Secretary	Assistant National Secretary	31 December 2005
National President	National President	31 December 2005
Deputy National President	Deputy National President	31 December 2005
Section Secretary	Section Secretary	31 December 2005
Section Councillor	Section Councillor	31 December 2005

- b. The duties of the Offices set out in Column 2 above shall be the duties contained in these Rules.

7.2 – TRANSLATION OF CERTAIN OFFICE HOLDERS

- a. The holder of an Office listed in Column 1 below as at the day before the certification of these Rules shall occupy the corresponding Office listed in Column 2 on and from the date of certification of these Rules until the end of the current term of office specified in Column 3 provided the holder of the Office remains eligible to hold the position in accordance with these Rules.

Column 1	Column 2	Column 3
National Councillor	Transitional Governing Councillor	31 December 2005

- b. The duties of the Offices set out in Column 2 above shall be the duties contained in these Rules.

7.3 – TRANSITIONAL OFFICE HOLDERS

- a. The holder of an Office listed in Column 1 below as at the day before the certification of these Rules shall occupy the corresponding Office listed in Column 2 on and from the date of certification of these Rules until the end of the current term of office specified in Column 3 provided the holder of the Office remains eligible to hold the position in accordance with these Rules as at 1 May 2005. Should a vacancy occur in any Transitional position prior to the expiration of the term of office, the position shall be abolished on and from the date of the vacancy.

Column 1	Column 2	Column 3
Division Secretary	Transitional Division Secretary	31 December 2005
Assistant Division Secretary	Transitional Assistant Division Secretary	31 December 2005
Regional Secretary	Transitional Regional Director	31 December 2005
Regional Councillor	Transitional Regional Councillor	31 December 2005
Professional Officers Secretary	Transitional Professional Officers Secretary	31 December 2005

- b. The duties of the Offices in Column 2 above shall be to provide such assistance as is necessary to the National Secretary in the operation and affairs of the Union.

7.4 - TRANSITIONAL GOVERNING COUNCIL

From the date of certification of these Rules until 31 December 2005, the Governing Council shall be constituted by the National Officers, the Transitional Governing Councillors, Transitional Division Secretaries, Section Secretaries, the Transitional Professional Officers Secretary and Transitional Regional Directors.

7.5 - TRANSITIONAL EXECUTIVE COMMITTEE

From the date of certification of these Rules until 31 December 2005, the Executive Committee shall be constituted by the National Officers, the Transitional Division Secretaries, and the Transitional Regional Directors.

7.6 – TRANSITIONAL SECTION COUNCILS AND SECTION OFFICER POSITIONS

- a. From the date of certification of these Rules until 31 December 2005, Section Councils existing prior to the date of certification of these Rules shall continue to operate in accordance with the provisions of these rules. From 1 January 2006 those Section Councils that are established in accordance with these Rules shall operate.
- b. The holder of an Office or position listed in Column 1 below as at the day before the certification of these Rules shall occupy the corresponding Office or position listed in Column 2 on and from the date of certification of these Rules until the end of the current term of office specified in Column 3 provided the holder of the Office remains eligible to hold the position in accordance with these Rules, where the holder of an Office listed in Column 1 was elected by and from the members of the Section or by and from the members of a Section electorate.

Column 1	Column 2	Column 3
Assistant Section Secretary	Assistant Section Secretary	31 December 2005
Section President	Section President	31 December 2005
Deputy Section President	Deputy Section President	31 December 2005
Section Treasurer	Transitional Section Treasurer	31 December 2005
Section Executive Member	Section Executive Member	31 December 2005

- c. The duties of the Offices set out in Column 2 of paragraph (b) above shall be the duties contained in these Rules, except that the duties of Transitional Section Treasurer shall be to provide such assistance as is necessary to the Section Secretary in the operation and affairs of the Section.
- d. The holder of an Office or position listed in Column 1 below as at the day before the certification of these Rules shall occupy the corresponding Office or position listed in Column 2 on and from the date of certification of these Rules until the end of the current term of office specified in Column 3 provided the holder of the Office remains eligible to hold the position in accordance with these Rules, where the holder of an Office listed in Column 1 was elected by and from the Section Council.

Column 1	Column 2	Column 3
Assistant Section Secretary	Assistant Section Secretary	30 June 2006
Section President	Section President	30 June 2006
Deputy Section President	Deputy Section President	30 June 2006
Section Treasurer	Transitional Section Treasurer	30 June 2006
Section Executive Member	Section Executive Member	30 June 2006

- e. If the Section Council is established under paragraph (a) of this Rule, the duties of the Offices set out in Column 2 of paragraph (d) above shall be the duties contained in these Rules, except that the duties of Transitional Section Treasurer shall be to provide such assistance as is necessary to the Section Secretary in the operation and affairs of the Section.
- f. Where a Section Council is not established under paragraph (a) of this Rule, the duties of the Offices set out in Column 2 of paragraph (d) above shall be the duties contained in these Rules, except that the duties of Transitional Section Treasurer shall be to provide such assistance as is necessary to the Section Secretary in the operation and affairs of the Section until 31 December 2005. From 1 January 2006 the duties of the Offices set out in Column 2 of paragraph (d) above shall be to provide such assistance as is necessary to the Section Secretary in the operation and affairs of the Section.

7.7 – CONTINUATION OF OTHER POSITIONS

- a. The holder as at the day before the certification of these Rules of any CSIRO Sub-Section Officer position, Tax Sub-Section Officer position, or any other Sub-Section Officer position elected by and from the members of the Sub-Section shall occupy the same position until the end of the current term of office provided the holder of the Office remains eligible to hold the position in accordance with these Rules.
- b. An elected Delegate or Deputy delegate on the day before the certification of these Rules shall continue to be a Delegate or Deputy Delegate until the end of the current term of office provided they remain eligible to hold the position in accordance with these Rules.

7.8 - DECISIONS

All decisions and policy of the National Council and/or the National Management Committee of the PSU Group made on or before the day before the certification of these Rules and having effect on the day before the certification of these rules shall continue in force and be deemed to have been made by the Governing Council and/or the Executive Committee as the case may be.

SCHEDULE A

PART 8 - CSIRO SECTION

8.1 - CSIRO SECTION

- a. There shall be a CSIRO Section of the PSU Group. Membership of the CSIRO Section shall consist of all members of the CSIRO Section on the day before the commencement of the operation of this Rule, members employed by the Commonwealth Scientific and Industrial Research Organisation (herein referred to as the CSIRO), and shall be open to persons who are eligible to be members of the Union pursuant to sub-Rule 4H of Part 1 of Rule 2 of Chapter A. The Governing Council may, acting only on the advice of the CSIRO Section Council, determine the members or classes of members who shall also be members of the CSIRO Section.
- b. The provisions contained in this Part (Part 8) shall apply to the CSIRO Section and shall prevail to the extent of any conflicting provisions in the Rules of Chapter B.
- c. The Rules in this Part may be amended or rescinded by the National Officers Committee only on the recommendation of the Governing Council and the CSIRO Section Council.
- d. The CSIRO Section may only be dissolved by Governing Council on the recommendation of the CSIRO Section Council.
- e. Any reference in this Part to "Section" shall be read as a reference to the "CSIRO Section". Any reference in this part to a "Sub-section" shall be read as a reference to a "CSIRO Sub-section".

8.2 – OPERATING AGREEMENT

- a. The Governing Council may enter into an Agreement (hereinafter called an "Operating Agreement") with the CSIRO Section relating to the operation of the Section consistent with the Rules on the basis that an Operating Agreement may only be varied or rescinded with the agreement of the CSIRO Section Council.
- b. An Operating Agreement may include but not be limited to:
 - (i) the structure of the Section;
 - (ii) the delegations made to the Section Secretary or Section Council;
 - (iii) provisions relating to the finances of the Section
- c. Notwithstanding other provisions in the Rules, an Operating Agreement:
 - (i) may provide for the superintendence, management and control by the Section Council of funds, property and liabilities, and all income of the Section Council derived from any source;
 - (ii) may provide that all income of a Section shall be promptly deposited into a Section account designated by the Section Executive;
 - (iii) may provide that any funds under the superintendence, management and control of the Section shall be for the benefit of the Section members generally;
 - (iv) may give the Section Council the power to invest the whole or any part of any funds or property under the superintendence, management and control of the Section, and to vary such investments;

- (v) may provide for the direct payment to and the retention of subscriptions received in respect of members of the Section to be retained by the Section Council in whole or in part;
 - (vi) may authorise the Section Secretary to prepare a budget for the operation of the Section for approval by the Section Council or Section Executive, which shall include the allocation of funds for broader CPSU activities;
 - (vii) may provide for the payment of all liabilities of the Section to be first met out of the funds of the Section; and
 - (viii) may provide for the setting of subscriptions by the Governing Council only on the recommendation of Section Council.
- d. Any such Agreement entered into with the CSIRO Section prior to 31 December 2004 shall continue in force and have the same force and effect as if it were an Agreement made under paragraph (a).

8.3 - CSIRO SECTION FUNDS & EXPENDITURE

- a. The CSIRO Section funds shall be constituted by any monies allocated to or retained by the Section under the provisions of an Operating Agreement.
- b. Any CSIRO Section funds shall be maintained with a bank or financial institution approved by the Section Council, in the name of the Section.
- c. Disbursements in regard to expenditure of any CSIRO funds shall be made against the authority of a resolution of the Section Council or upon the recommendation of the Section Secretary and the approval of the Section President, with such approvals included in a statement of receipts and expenditure for the period in which it occurred, submitted to the Section Council at each ordinary meeting.
- d. A loan, grant or donation of an amount exceeding \$1,000 shall not be made by the CSIRO Section unless the Section Council or the Section Executive:
 - (i) has satisfied itself:
 - (a) that the making of the loan, grant or donation would be in accordance with the other Rules of the PSU Group; 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.
- e. Payment of any Section accounts shall be by cheque signed by two persons, at least one of whom is a Section Officer and one of whom may be an employee authorised by the Section Council to sign cheques, or by a system of funds transfer approved by the Executive Committee.
- f. The Section shall keep proper records of the details of any monies received and paid by it.

- g. The Section Council may establish separate accounts for the use by designated Sub-Section delegates Committees within limits and expenditure guidelines determined by the Section Council. Payment out shall be by cheque signed by any of the Sub-Section Officers. All such expenditure shall be advised to the Section Treasurer (or such other Officer authorised by Section Council for the purpose if there is no Section Treasurer) at such times as the Section Secretary, Section Treasurer (or such other Officer authorised by Section Council for the purpose if there is no Section Treasurer) or Section Councillor requires.
- h. The provisions of Rules 4.8 and 4.16 shall apply to CSIRO funds with the necessary changes being made, and subject to the terms of any Operating Agreement. To avoid doubt, the CSIRO Section Executive, or the CSIRO Section Council if there is no Section Executive, shall appoint the auditors under Rule 4.16.

8.4 – SECTION OPERATIONS

- a. There shall be a CSIRO Section Council consisting of those persons specified in Rule 2.21 and such Section Officer positions as are approved by the Governing Council.
- b. The CSIRO Section Council shall have the power to superintend, manage and control the affairs of the Section and any Section funds.
- c. The Section Council may establish a Section Executive to be the managing body of the Section, consisting of the Section Officers and if the Section Council determines, Section Executive Members.
- d. A Section Executive may establish its own method of operation provided it is not inconsistent with the provisions of the Rules.
- e. To assist the Section Council, the Section Council shall establish such Sub-Sections as it considers necessary and as are approved by the Governing Council, and shall establish such of those Sub-Section Officer positions as are at Rule 8.7(e) as it requires.

8.5 – SECTION OFFICERS

- a. The Section Officers shall be the Section Secretary and a Section President and may, subject to Governing Council approval, include:
 - (i) a Deputy Section President or more as determined by the Governing Council.
 - (ii) an Assistant Section Secretary or more as determined by the Governing Council.
 - (iii) a Section Treasurer.
- b. A salaried Section Secretary and a salaried Assistant Section Secretary not otherwise a member of the Section shall be deemed to be a member of the Section.

8.6 – SUB-SECTION OFFICERS

- a. A position of Sub-Section Officer shall become vacant if the holder ceases to be a member of the Sub-Section.

- b. Sub-Section Officers shall be elected by and from members of the Sub-Section.
- c. The terms of office for Sub-section Officers shall be 2 years from 1 July in the year of their election.

8.7 – DUTIES

- a. Subject to a direction of the Section Council, an Assistant Section Secretary shall be under the direction of the Section Secretary and shall render such assistance as may be required in the administration of the Section.
- b. A Section President shall if present preside at all meetings of the Section Council and Section Executive and perform the duties of the Chair as specified in Rule 5.10.
- c. A Deputy Section President shall assist the Section President in the exercise of their duties and in the absence of the Section President perform all the duties of the Section President. Should there be more than one Section Deputy President, the Section Council shall select one of them to act in the place of the Section President.
- d. A Section Treasurer shall, subject to the provisions in Part 4:
 - (i) take charge of any monies received by the Section Council and within seven days of receipt deposit such monies to the credit of the Section with the financial institution nominated by the Section Council; and
 - (ii) at all times when required by the Section Council, Section Executive, the Governing Council or the Executive Committee give a statement of the financial affairs of the Section.
- e. The respective duties of the Sub-Section Officers shall be:
 - (i) Sub-Section Secretary - to keep written records of meetings, to forward a copy of such records to the Section Secretary, to give notice of meetings where appropriate under these Rules, to carry out such representation tasks as may be required and, subject to the direction of the Section Council, perform such duties as are determined by the Section Secretary.
 - (ii) Sub-Section President - to chair meetings of the SDC and to carry out any representation requested by the SDC within its authority.
 - (iii) Deputy Sub-Section President - assist the President and perform the duties of the President in their absence or unavailability.
 - (iv) Assistant Sub-Section Secretary - assist the Secretary and perform the duties of the Secretary in their absence or unavailability.
- f. The duties of a Section Executive Member shall be to attend meetings of the Section Executive.

8.8 – WORKPLACE DELEGATES

- a. Workplace Delegates shall be elected annually by and from the members of each Workplace by secret postal ballot under the provisions of Rule 8.10.

- b. The Section Council, shall determine the number of Workplace Delegates to be elected from each Workplace.
- c. The term of office for Workplace Delegates shall be 1 year from 1 July in the year of election.

8.9 – SUB-SECTION DELEGATES COMMITTEES

- a. There shall be a Sub-Section Delegates Committee (SDC) in each Sub-Section consisting of the delegates from all of the workplaces in the Sub-Section. A Sub-Section Officer or Section Councillor of the Sub-Section who is not a delegate shall be an ex-officio member of the Sub-Section.
- b. An SDC shall, subject to any decision or policy of the Governing Council, assist in the work of the Section, particularly with respect to the Sub-Section they represent, and shall determine its own method of operation provided it is not inconsistent with these rules.

8.10 - SECTION ELECTIONS

- a. The Section Secretary shall within the time provided in the Workplace Relations Act 1996 advise the Industrial Registrar of elections required to be conducted for Section and Sub-Section Officers and Workplace Delegates, with a view to ensuring that no irregularity occurs in or in connection with the elections.
- b. If for any reason the Industrial Registrar does not arrange for the conduct of an election for Sub- Section Officers or Workplace Delegates, the Section Council shall appoint such Returning Officers as it considers necessary to conduct the election.
- c. The Returning Officer shall then proceed in accordance with the provisions of Part 3. The Returning Officer shall call for nominations for any Sub-section Officer or Workplace Delegate position by notice sent to members of the respective Sub-section or Workplace and/or a notice published in a newsletter or journal.
- d. Nominations shall close at 12 noon on the last Wednesday in March.

8.11 – NOMINATIONS AND VACANCIES

- a. A salaried Assistant Section Secretary shall be elected by the Section members from the members of the PSU Group.
- b. A non-salaried Assistant Section Secretary, a Section President, a Section Deputy President and a Section Treasurer shall be elected by and from the members of the Section Council, or by and from the members of the Section, as determined by the Governing Council.
- c. Section Executive Members shall be elected by and from the Section Council.
- d. A vacancy occurring in a Section President, Assistant Section Secretary, Deputy Section President or Section Treasurer position shall be dealt with in accordance with Rule 3.14 except that where the remainder of the term of office is less than 12 months, the Section Council shall appoint a financial member of the Section to the vacancy.

- e. Where a vacancy occurs for any reason in the position of Sub-Section Officer or Workplace Delegate, such vacancy shall be filled by appointment by the Sub-Section Delegates Committee, except that any vacancy in an office of Sub-Section Officer occurring where there is 12 months or more of the term of office remaining shall be filled by election by and from the members of the Sub-section.
- f. Any person elected or so appointed under this Rule shall hold office for the unexpired portion of the term of office.
- g. A Section Officer position shall become vacant in the same way as applies to Section Secretaries under Rule 2.20.
- h. A Sub-Section Officer position shall become vacant if the holder ceases to be a member of the Sub-Section.
- i. The term of office for an Assistant Section Secretary, a Section President, a Deputy Section President, a Section Treasurer or a Section Executive Member shall be:
 - (i) if elected by and from the members of the Section, the same as for a Section Secretary;
 - (ii) if elected by and from the Section Council, 3 years from the 1st of July in the year immediately following the election of the Section Secretary.

8.12 - QUORUMS

Notwithstanding the provisions of Rule 5.8, a quorum for a meeting of the CSIRO Section Council shall be two Section Officers or their proxies and a majority of the Section Councillors or their proxies.

8.13 - PROXIES

- a. Each Section Councillor shall appoint, whenever necessary, a proxy who is either a member of their Sub-Section Delegates Committee, or who holds an elected office in the CSIRO Section.
- b. A Section Officer who is unable to attend a meeting of the Section Council shall appoint, whenever necessary, a proxy who holds an elected office in the CSIRO Section.
- c. If a Workplace Delegate cannot attend a meeting of a Sub-Section Delegates Committee they may appoint as her/his proxy a financial member of their Workplace or another member of the SDC. If a Sub-Section Officer cannot attend a meeting of a Sub-Section Delegates Committee they may appoint as her/his proxy a financial member of their Sub-Section or another member of the SDC.
- d. All proxy appointments shall be notified in writing to the Chair of the meeting. No member may hold more than one proxy at any meeting.

8.14 – VOTING

- a. Subject to specific provisions elsewhere in these Rules, each member of the Section Council, Section Executive, Sub-Section Council and Sub-Section Executive shall be entitled to one vote at any meeting of those bodies and one additional vote if holding a proxy.
- b. When requested by any member of a body as listed in Column 1 in the following table, voting on any matter by a member of that body as listed in the corresponding row of Column 2 shall be in accordance with the weighting as determined in accordance with the formula as listed in the corresponding row of Column 3. For the purposes of this Rule, financial membership shall be determined as at the end of the preceding quarter.

Column 1	Column 2	Column 3
Sub-section Delegates Committee	ex-officio members	1 vote each
	Workplace Delegates	1 vote for each financial member or in the case of Workplaces with multiple Workplace Delegates, each Workplace Delegate shall have a vote equal to the number of financial members in the Workplace divided by the number of Workplace Delegates for that Workplace, and/or their proxies, attending the meeting.
Section Council	Section Officers	1 vote each
	Governing Councillors	1 vote each
	Section Councillors	1 vote for each 100 financial members or part thereof of the members represented, or in the case of Sub-sections with multiple Section Councillors, the number of votes determined by this formula shall be divided equally between the Section Councillor positions.

PART 9A - TAX SECTION SUPPLEMENTARY PROVISIONS

9A.1 - TAX SECTION

- a. There shall be a Tax Section. Membership of the Tax Section shall consist of members of the Tax Section on 31 December 1996 and all members employed by the Australian Taxation Office. Governing Council may, acting only on the advice of the Tax Section Council, determine the members or classes of members who shall also be members of the Tax Section.
- b. The provisions contained in this Part (Part 9A) and in Part 9 shall prevail to the extent of any conflicting provisions in the Rules of Chapter B.

9A.2 – SECTION OPERATIONS

- a. There shall be a Tax Section Council consisting of those persons specified in Rule 2.21, the Tax Section President and such Section Officer positions as are approved by the Governing Council.
- b. To assist in the management of the affairs of the Section, the Section Council shall establish such Sub-Sections as it considers necessary and as are approved by the Governing Council.
- c. To assist and provide advice to the Section Secretary in the management of the affairs of the Sub-Section, there shall be Sub-Section Officers in each Sub-Section.

9A.3 – SECTION AND SUB-SECTION OFFICERS

- a. The Section Officers shall be the Section Secretary and a Section President and may, subject to Governing Council approval, include:
 - (i) a Deputy Section President or more as determined by the Governing Council.
 - (ii) an Assistant Section Secretary or more as determined by the Governing Council.
- b. The Sub-Section Officers shall be a Sub-Section Secretary and a Sub-Section President, provided that a Sub-Section Delegates Committee may determine that there also be a Deputy Sub-Section President and/or an Assistant Sub-Section Secretary.

9A.4 – DUTIES

- a. The respective duties of the Sub-Section Officers shall be:
 - (i) Sub-Section Secretary - to keep written records of meetings, to forward a copy of such records to the Section Secretary, to give notice of meetings where appropriate under these Rules, to carry out such representation tasks as may be required and, subject to the direction of the Section Council, perform such duties as are determined by the Section Secretary.
 - (ii) Sub-Section President - to chair meetings of the SDC and to carry out any representation requested by the SDC within its authority.
 - (iii) Deputy Sub-Section President - assist the President and perform the duties of the President in their absence or unavailability.

- (iv) Assistant Sub-Section Secretary - assist the Secretary and perform the duties of the Secretary in their absence or unavailability.

9A.5 – SUB-SECTION DELEGATES COMMITTEES

- a. There shall be a Sub-section Delegates Committee (herein termed the SDC) in each Sub-Section. An SDC shall consist of all of the Workplace Delegates in the Sub-Section. A Sub-Section Officer or a member of Section Council who is in the Sub-Section, who is not a Workplace Delegate, shall be ex-officio a member of the SDC. The relevant Deputy Delegate may attend where a Workplace Delegate is absent.
- b. An SDC shall, subject to any decision or policy of the Governing Council, assist in the work of the Section, particularly with respect to the Sub-Section they represent, and shall determine its own method of operation provided it is not inconsistent with these rules.
- c. The Section Secretary, Section Council, National Secretary or Executive Committee may take control at any time of a matter which the SDC is pursuing.

9A.6 – NOMINATIONS, VACANCIES AND APPOINTMENTS

- a. Where a vacancy occurs for any reason in the position of Sub-Section Officer or Workplace Delegate, such vacancy shall be filled by appointment of a financial member of the Sub-Section by the Sub-Section Delegates Committee.
- b. Any person elected or so appointed under this Rule shall hold office for the unexpired portion of the term of office.
- c. A Sub-Section Officer position shall become vacant if the holder ceases to be a member of the Sub-Section.

9A.7 – ADDITIONAL MATTERS

- a. References in Rule 9.1 to the National Council shall be read as references to the Governing Council.
- b. The reference in Rule 9.6(d) to Part 6 shall be read as a reference to Part 3.

PART 9 - TAX SECTION PROVISIONS

9.1 - TAX SECTION

- a. The provisions contained in this Part shall prevail to the extent of any conflicting provisions in the Rules of Chapter B.
- b. The Rules in this Part may be amended or rescinded by the National Officers Committee only on the recommendation of the National Council and the Tax Section Council.
- c. The Tax Section may only be dissolved by National Council on the recommendation of the Tax Section Council.
- d. Any reference in this Part to "Section" shall be read as a reference to the "Tax Section". Any reference in this part to a "Sub-section" shall be read as a reference to a "Tax Sub-section".

9.2 - SDC EXECUTIVE

- a. There shall be an SDC Executive in each Sub-section which, subject to the direction of the Sub-section Delegates Committee, shall exercise all the powers of the SDC.
- b. The SDC Executive shall consist of the Sub-section Officers, the Section Councillors representing the Sub-section and five SDC Executive Members.
- c. The SDC Executive shall meet in person and/or by telephone conference and may determine any matter by post, facsimile or other electronic means.
- d. The SDC Executive shall meet when directed by the Section Council, Section Executive, Section Secretary, the SDC or when requested by the Sub-section President or the Sub-section Secretary or a majority of SDC Executive Members.
- e. A meeting of the SDC Executive shall be convened by the Section Secretary or the Sub-section Secretary giving reasonable notice of the meeting to the members of the SDC Executive and the matter or matters to be dealt with at the meeting.
- f. Each member of the SDC Executive shall have one vote.
- g. Decisions of the SDC Executive shall be notified to members of the SDC by the Sub-section Secretary as soon as possible after the Executive meeting. If at any time up to and including the seventh day after the issue of the notification, a majority of the members of the SDC, requests in writing to the Section Secretary or Sub-section Secretary that the decision be not implemented, then no action shall be taken until the decision is ratified by the SDC.
- h. A decision of the SDC Executive shall only be altered or overturned by the SDC where the number of voting members of the SDC present for the vote on the decision to alter or overturn the SDC Executive decision is greater than the number of voting members of the SDC Executive who were present when the decision was made.

9.3 - ELECTION TO OFFICE - ELIGIBILITY TO NOMINATE AND TO VOTE

- a. Sub-section Officers shall be elected by and from the members of the Sub-section.
- b. SDC Executive Members shall be appointed by and from the SDC.

9.4 - HOLDING OF MORE THAN ONE OFFICE

A member shall be entitled to hold any number of offices except that:

- a. no member shall hold more than one office on Section Council;
- b. no Section Officer during a term of office shall hold the position of Section Councillor or act as a proxy for a Section Councillor; and
- c. no member shall hold more than one of the offices of Sub-section Secretary, Assistant Sub-section Secretary, Sub-section President, Deputy Sub-section President, or SDC Executive Member.

9.5 - TERMS OF OFFICE

The terms of office of SDC Executive Members shall be 1 year from 1 July in the year of their appointment.

9.6 - SUB-SECTION ELECTIONS

- a. If for any reason the Industrial Registrar does not arrange for the conduct of an election for Sub-section Officers, the Section Secretary shall appoint a Returning Officer who shall conduct the election.
- b. The Returning Officer shall call for nominations for the positions of Sub-section Officers by notice which shall be published to all members of the Sub-section not later than 21 days prior to the close of nominations.
- c. Nominations shall be lodged with the Returning Officer not later than 12.00 noon on the last Wednesday in March in the year of election.
- d. The provisions of Part 6 shall apply to elections held pursuant to this Rule.

9.7 - VACANCIES

- a. Where a vacancy occurs for any reason in the offices of Sub-section Officer or SDC Executive Member, such vacancy shall be filled by appointment by the SDC.
- b. Any person elected or so appointed under this Rule shall hold office for the unexpired portion of the term of office.

- c. The office of SDC Executive Member shall become vacant if the holder ceases to be a member of the SDC.

9.8 - SUB-SECTION FUNDS: EXPENDITURE

The Section Executive may establish separate accounts for the use by designated Sub-section Delegates Committee or SDC Executive within limits and expenditure guidelines determined by the Section Executive. Payment out shall be by cheque signed by any one of the Sub-section Officers. All such expenditure shall be advised to the Section Treasurer at such times the Section Secretary, Section Treasurer or Section Executive requires.

PART 10 – OTHER SECTIONS

10.1- FOOD INSPECTORIAL SECTION

- a. There shall be a Food Inspectorial Section. Membership of the Food Inspectorial Section shall consist of all members who are employed in Food Inspectorial Grades in the Australian Public Service. Governing Council may, acting only on the advice of the Food Inspectorial Section Council, determine the members or classes of members who shall also be members of the Food Inspectorial Section.
- b. The Governing Council may enter into an Agreement (hereinafter called an "Operating Agreement") with the Food Inspectorial Section relating to the operation of the Section consistent with the Rules on the basis that an Operating Agreement may only be varied or rescinded with the agreement of the Food Inspectorial Section Council.
- c. The provisions of Rule 8.2 shall apply to any Operating Agreement made with the Food Inspectorial Section, except that the Section shall not superintend, manage or control funds.
- d. Any such Agreement entered into with the Food Inspectorial Section prior to 31 December 2004 shall continue in force as if it were an Agreement made under paragraph (b).

10.2 – ABC SECTION

- a. There shall be an ABC Section. Membership of the ABC Section shall consist of all members employed by the Australian Broadcasting Corporation as constituted under the Australian Broadcasting Act, 1983 together with members employed by the Symphony Orchestras and subsidiary companies owned by the Australian Broadcasting Corporation. The Governing Council may, acting only on the advice of the ABC Section Council, determine the members or classes of members who shall also be members of the ABC Section.
- b. In the event of a vacancy in, and/or prior to the calling for nominations to fill the position of, the ABC Section Secretary, the National Secretary will review the continuation of the position as a salaried officer. The National Secretary shall obtain the views of the ABC Section Council prior to making any recommendation to the Governing Council as to the continuation of the position as a salaried officer.
- c. A salaried ABC Section Secretary not otherwise a member of the Section shall be deemed to be a member of the Section.

****END of RULES****

Delegate Code and procedures

Background

The CPSU rules relating to expected conduct and sanctions for delegates need updating. They were inserted into the rules long ago and the legal framework and expectations of the CPSU, including as an employer under workplace health and safety (WHS) laws, have changed since then.

The CPSU has undergone a process to ensure best practice harassment and discrimination policies are in place for our staff. This makes sure that staff are working in a safe environment, and we uphold the high standards of behaviour that accord with our values as an organisation. In that process it has come to light that further improvements are needed to ensure that all elected CPSU representatives are afforded the same level of protections and are required to uphold the values of the organisation. The union also needs to ensure that it upholds its obligations to union employees under WHS legislation.

Members and officials are required to comply with the rules and there are currently provisions under the rules to sanction members or officials of the union for breaching the rules, or gross misbehaviour. However, these processes are outdated and inefficient and we do not currently have a code of conduct or any statement of values that representatives are required to uphold as part of the rules or GC policy.

The current CPSU rules require complainants of sexual harassment, discrimination, bullying or other inappropriate behaviour to make a complaint that is dealt with via a complex and public process. This is a significant barrier to making a complaint that is not appropriate and is insufficient.

The laws that regulate CPSU as an employer have moved on since the current provisions were included in our rules. WHS laws are now more stringent and, as an employer, we need to do more to protect staff from discrimination, harassment and other inappropriate conduct given that our staff spend a significant amount of their time working in the field with members and workplace leaders. We need to ensure that the CPSU is able to ensure a safe environment in that context.

As an organisation we also need to ensure that in circumstances where delegates or members believe they've been subject to discrimination, harassment or other inappropriate conduct by a delegate there is an appropriate avenue for them to make a complaint.

What is the current process to deal with conduct issues?

There is no code of conduct under the rules applying to elected officers. However, under rules 5.18 and 5.19 disputes and charges can be brought by and against any member of union on the following grounds:

- misappropriation of the funds of the Union.
- a substantial breach of the Rules of the Union.

- gross misbehaviour or gross neglect of duty.
- an infringement of the Union's Rules, resolutions, or directions lawfully given

A complaint must be in writing and accompanied by a \$100 deposit (which may or may not be returned) and given to the National Secretary. A complaint that does not fall into one of the first 3 categories above must be brought within 28 days of the conduct occurring. EC can also instruct a National Officer to bring a charge against a member without the \$100 deposit.

Complaints are then forwarded to Dispute Tribunal is made up of 3 members appointed by EC. If the Tribunal considers that the member is guilty of the charge they can recommend one of the following sanctions to GC.

- A fine of up to \$250
- Deprivation of any right of membership
- Removal from office (only on one of the first 3 grounds above)

A sanction may only be imposed by a vote of GC. If the sanction involves removal from office a 2/3 majority vote is required.

What is required to create a Delegate Code and new process?

1. *Initial endorsement of Delegate Code and enforcement process at GC 2.2021*

- *Code of Conduct* – This will apply to all workplace elected officers – ie delegates, Section Councillors, Section Secretaries, Governing Councillors and Executive Committee. Initially this will be implemented as a GC policy.
- *New simpler enforcement process* – We need a simpler process that can ensure member privacy. The current process requires a GC resolution to impose any sanctions.

2. *CPSU Rule change to insert framework for Code and new process*

- Rule change will provide explicit power for GC to establish a Delegate Code, requirements for delegates to comply with the Code and procedures to investigate breaches.
- Rule change will be endorsed by out of session GC and NOC vote after GC has determined the framework for the code and process at the current GC meeting 2.2021.

3. *GC to pass a resolution implementing the new Code and procedures.*

- After the rule change comes into effect, GC will be able to establish the Code.
- GC will also determine the procedural guidelines that ensure procedural fairness in the process.

Who will be covered by the code and procedures?

- The code of conduct and procedure will apply to all CPSU delegates.
- Section Councillors, Section Presidents, Section Secretaries, Governing Councillors and Executive Committee members will also be covered. In respect of those roles, there will be an additional step that they may only be removed from office by a two-thirds majority vote of GC (and a majority of the relevant section council).
- Other members continue to be covered by the general disputes and charges provisions in rule 5.18 and 5.19 of the rules with some modification to modernise the process.

CPSU delegate conduct obligations

CPSU delegates have an obligation to conduct themselves in a way that reflects union values and ensures that at all times in their capacity as a union delegate they;

- Strive to make our workplaces and communities fairer and safer
- Pursue the interests of members with honesty, integrity and visibility.
- recognise the intrinsic dignity of all persons regardless of
 - race,
 - colour,
 - sex,
 - sexual orientation,
 - age,
 - physical or mental disability,
 - marital status,
 - family or carer's responsibilities,
 - pregnancy,
 - religion,
 - political opinion,
 - national extraction or
 - social origin

and will act without bias

- treat all persons (including members, delegates, other colleagues, staff and officials as well as management) with respect and professionalism, and without harassment;
- maintain appropriate confidentiality of members details/ information
- use Union resources in a proper manner and for a proper purpose
- at all times behave in a way that upholds the union Values and the good reputation the CPSU

What is the proposed enforcement process for breaches of code of conduct?

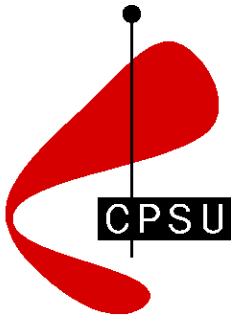
1. A complaint about a breach of the code of conduct may be made by any member in writing to the National Secretary, or her nominated representative.
2. National Secretary or nominated representative will determine whether, if proven, the allegation could constitute a breach of the code.
3. If an alleged breach is minor in nature and the NS or nominated representative considers it appropriate, the National Secretary or nominated representative may initially attempt to resolve the issue informally through discussion, mediation or other processes.
4. If conduct would constitute a breach, and paragraph 3 does not apply or fails to resolve the issue, an initial investigation will be done by the delegate of the National Secretary, ensuring procedural fairness, to determine whether there is any substance to the complaint and whether, if proven, the complaint would constitute a breach of the code. An independent investigator may be appointed where appropriate.
5. If the complaint is substantiated or partially substantiated, the investigator's report will be provided to a subcommittee appointed by GC/EC.
6. Any decision to dismiss a complaint will be in writing setting out the reasons for the decision and will also be sent to the GC subcommittee.
7. A vexatious, frivolous, unreasonable, or malicious complaint may be rejected without investigation.
8. If the complaint is substantiated the GC subcommittee will review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Code of Conduct, the CPSU Rules and/or any legislation.
9. If the conduct does constitute a breach of any of the above, the GC subcommittee will recommend an appropriate sanction in an initial report provided to the National Secretary and the subject of the complaint. Sanctions may include:
 - a. A formal warning
 - b. Deprivation of the rights attaching to membership for a specified period up to 6 months
 - c. Removal from office

10. The GC subcommittee may only recommend removal from office if the conduct involved:
 - a. misappropriation of the funds of the Union,
 - b. a substantial breach of the Rules of the Union, or
 - c. gross misbehaviour or gross neglect of duty.
11. The person who is the subject of the complaint may provide a written response within 21 days of receiving the initial report.
12. After considering the response provided by the subject of the complaint, or if no response has been provided within 21 days after the initial report has been provided, the committee will provide a final report and recommendation to the National Secretary.
13. The National Secretary will act on the recommendation of the GC subcommittee and give effect to the Recommendation.
14. The removal of a Section Councillor or Governing Councillor can only proceed with a majority support vote of Section Council, and then a two-thirds majority support vote of Governing Council.
15. The removal of an Executive Committee member can only proceed with a two-thirds majority support vote of Governing Council.

What is Governing Council being asked to approve at this meeting?

At this meeting Governing Council is being asked to approve the Delegate Code as Governing Council Policy. Under rule 1.3(b)(vi) of the CPSU Rules, Governing Council has the power to establish policy for the operation of the PSU Group.

The new enforcement process will not take effect until the CPSU rules can be changed. However, Governing Council is also being asked to support the proposed enforcement process to enable a rule change to be drafted. The rule change would be circulated for a Governing Council out of session vote before the next formal Governing Council meeting.



Governing Council Out of Session Vote

Vote by 9 December 2021

To: Members of Governing Council

From: Melissa Donnelly
National Secretary

Date: 26 November 2021

Subject: Rule 1.6 Governing Council Out of Session Vote

& Number: 2.2021: Delegate Standard

Background to the proposal

At the Governing Council meeting in October 2021, Governing Council endorsed a Delegate Standard to articulate the values by which delegates should carry out their duties. This Standard currently has effect as Governing Council policy and was adopted after detailed consideration and involvement of Governing Councillors.

It is proposed that the Delegate Standard will be given effect in the following:

- A. Delegate Standard – adopted by Governing Council as policy in October 2021
- B. Rule change to create a framework of powers and procedural fairness rights – as outlined in this proposal
- C. Procedures for the handing of complaints and dealing with breaches of the Standard – to be determined by Governing Council when the rule change takes effect.

This proposal sets out the detail of that proposed rule change in Step B above.

Detailed Outline of Proposed Changes:

1. New definitions

It is proposed that the Delegate Standard would apply to 'elected representatives' of the CPSU.

The new definition of 'elected representatives' covers Delegates, Deputy Delegates, Section Councillors, Section Officers, Governing Councillors and the National Officers (Executive Committee).

There are currently other CPSU rules relating to disciplinary processes that only apply to section councillors, section officers, governing councillors and national officers and don't apply to delegates or deputy delegates. These rules all use variations of the term 'person elected to office' and include rules 5.14 DISMISSAL OF ELECTED OFFICERS, 5.15 REMOVAL FROM OFFICE BY GOVERNING COUNCIL and 5.16 "NO CONFIDENCE" MOTIONS.

None of these terms are defined in the rules. To create clarity between the scope of these provisions and the scope of the Delegate Standard, and to create consistency in terminology, the following changes are proposed:

- A new definition would be inserted defining 'person elected or appointed to an office' as any person elected or appointed under Part 3 of these Rules (this includes all elected roles except delegates and deputy delegates who are elected under Part 2 of the Rules).
- A new definition would be inserted defining 'elected representative' to include delegates, deputy delegates, and persons elected or appointed to an office.
- Rules 5.15 and 5.16 would be amended to apply to a 'person elected or appointed to an office' consistent with the terminology in 5.14 and the new definition.

These amendments will not change the scope or effect of rules 5.14, 5.15 and 5.16.

2. Power to create Delegate Standard and relevant frameworks

The proposed changes would insert the following new provisions:

- 5.25(a) – would give Governing Council the power to establish a Delegate Standard to impose standards of conduct on elected representatives
- 5.25(b) – would give Governing Council the power to establish procedures for managing complaints and dealing with breaches of the Delegate Standard that are consistent with the Rules.
- 5.25(c) – would give the Governing Council the power to establish a Standards Committee made up of at least 3 Governing Council members.
- 5.25(d) – would require all elected representatives to comply with the Delegate Standard.

The establishment or alteration of the Delegate Standard can only be done by Governing Council and cannot be delegated to the Executive Committee. However, amendments to the procedures or the establishment of the Standards Committee could be done by the Executive Committee when Governing Council is not in session in a manner consistent with Governing Council policy.

3. Complaint process

(a) Member right to make a complaint

Proposed rule 5.25(e) would allow a member to make a complaint about an elected representative to the National Secretary if the member believes that the elected representative has not complied with the Delegate Standard.

Rule 5.25(r) would provide that any complaint that relates to the National Secretary would be made to the National President and the National Secretary's role in the investigation process would be undertaken by the National President.

(b) Assessment of complaint

Proposed rule 5.25(f) would allow a complaint to be dismissed without investigation if:

- The complaint, if proven, would not constitute a breach of the Standard, or
- The complaint is vexatious, frivolous, unreasonable or malicious.

5.25(g) would require any decision to dismiss a complaint to be in writing setting out the reasons for the decision. For further transparency, the GC procedures would be able to require decisions to dismiss complaints to be notified to the Standards Committee.

Proposed Rule 5.25(h) would give the National Secretary, or their delegate under 5.25(q), the ability to attempt to resolve a complaint informally where that is appropriate.

Where an informal resolution is not appropriate, proposed Rule 5.25(i) allows the National Secretary to commence the investigation phase immediately.

(c) Investigation process – responsibilities of National Secretary

The National Secretary, or their delegate under 5.25(q), would be responsible for conducting the initial investigation, providing a report to the Standards Committee, and giving effect to any sanction.

5.25(i) – would give the National Secretary the power to conduct an investigation and appoint an external investigator if appropriate.

5.25(j) – would require the National Secretary to provide a report of the investigation to the Standards Committee which may include recommendations.

5.25(n) – would require the National Secretary to give effect to the sanction determined by the Standards Committee as far as practicable. This power cannot be delegated.

5.25(o) – gives the National Secretary the power to remove a deputy delegate or deputy delegate from their elected position if that sanction is determined by the Standards Committee.

(d) Role of Standards Committee

The Standards Committee would be the decision maker and determine the sanction to be applied. Proposed Rule 5.25(k) requires the Standards Committee to:

- i. Review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Delegate Standard, and
- ii. If the conduct does constitute a breach, determine an appropriate sanction.

4. Procedural Fairness

Proposed Rule 5.25(m) requires that the person subject of the complaint must be afforded procedural fairness throughout the process.

The Governing Council procedures would be able to provide more detail about how the procedural fairness rights would operate and other steps in the process.

5. Sanctions

The sanctions that may be applied for a breach of the Delegate Standard are set out in proposed rule 5.25(l) are a formal warning, deprivation of the rights attaching to membership for a specified period of up to 6 months, and removal from office.

Removal from office may only be applied if the breach of the Delegate Standard involves one of the grounds listed in rule 5.15(a)(i)-(iii), namely:

- Misappropriation the funds of the PSU Group.
- A substantial breach of the Rules.
- Gross misbehaviour or gross neglect of duty.

This limitation is a requirement of s141(1)(c) of the *Fair Work (Registered Organisations) Act 2009*.

To respect and preserve the industrial democracy within Sections, further limitations would apply to the circumstances in which elected officers at Section Council level and above may be removed from office.

5.25(p) – would provide that the removal of a Section Councillor, Section Officer, Governing Councillor or National Officer may only proceed with a two-thirds majority support vote of Governing Council in accordance with rule 5.15. Rule 5.15 currently provides the mechanism for Section Councillors, Section Officers, Governing Councillors or National Officers to be removed from office by Governing Council.

The Governing Council procedures could also provide for consultation or coordination with the relevant Section Council before the removal of a Section Councillor, Section Officer or Governing Councillor from office is recommended as a sanction.

6. Amendments to the Disputes and Charges Process

The current disputes and charges process will continue to apply to members, and to elected representatives. To avoid overlapping procedures and the risk that complaints/charges may be brought against an elected representative under both rule 5.25 and 5.18 a new rule 5.18(h) would be added which would allow the National Secretary to deal with a charge brought under 5.18 under the Delegate Standard process instead of the Disputes and Charges process, if the alleged offence would also constitute non-compliance with the Delegate Standard.

The following rule changes are proposed to improve members' access to this process:

- Rule 5.18(b) would be amended, and Rule 5.18(h) would be deleted to remove the 28-day time limit for bringing a charge in relation to an offence under 5.18(iv).

- Rules 5.18(c) and (e) would be amended, and Rule 5.19(l) would be deleted to remove the requirement for a member to pay a deposit of \$100 when laying charge.
- Rule 5.19(d) would be amended to remove the requirement that a member can only be represented before the Dispute Tribunal by another member of the PSU Group. This would allow a member to have any representative of their choosing.
- Rule 5.19(i) would be amended to allow the Dispute Tribunal to issue a formal warning as an alternative to recommending a sanction to Governing Council.
- Rule 5.19(i)(i) would be deleted to remove the ability of the Disputes Tribunal to recommend a fine of up to \$250 as a sanction.

7. Workplace Representatives and other amendments

Under Rule 2.4 a workplace may also have Workplace Representatives as well as delegates. Workplace Representatives may carry out all the functions that a delegate may carry out under rule 2.3(b) but do not occupy an elected position.

As they are not elected to their position, Workplace Representatives will not be covered by the Delegate Standard rule and enforcement process, but it is proposed that they will be required to act in accordance with the Standard.

Rule 2.4(g) would be amended to insert acting contrary to the Delegate Standard as a reason for which a Workplace Representative may be removed from the list of Authorised Workplace Representatives by the Governing Council.

For clarity, Rule 2.3(e) would be amended to require that Delegates act in accordance with the Delegate Standard when carrying out their tasks.

Overview of the CPSU Rules

The CPSU is comprised of two groups, the PSU Group (us) and the SPSF Group which is made up of the state public sector unions who are part of the CPSU. The National Officers Committee (NOC) is made up of PSU Group and SPSF Group representatives.

The proposed rule changes contained in this Out of Session Vote require approval by NOC on the recommendation of the CPSU PSU Group Governing Council.

As a member of the PSU Group Governing Council, you are being asked to approve a recommendation to the NOC that it approve the attached changes to Chapter B of the rules.

If the PSU Group Governing Council approves the proposed rule changes to Chapter B, the approval of NOC will be sought and then an application lodged with the Fair Work Commission.

The Executive Committee recommends the changes and seeks your support for the motion by sending a 'Yes' or 'No' vote without qualification. Please note that under CPSU rules proxy votes are not permitted.

Please forward your vote by email to Kathryn Landsberry Kathryn.Landsberry@cpsu.org.au within 14 days (by COB 9 December 2021).



Melissa Donnelly
National Secretary
CPSU – PSU Group

The Motion:

Resolution

“To define the values by which elected representatives should carry out their duties by enabling the creation of an enforceable Delegate Standard and procedures, and to improve members’ access to the existing Disputes and Charges provisions, the Governing Council approves the following alterations to Chapter B of the rules of the CPSU and recommends their approval by the National Officers Committee:

Chapter B – PSU Group

1. Before rule 1.1 after the words ‘In this Chapter’ insert:

“elected representative” includes delegates, deputy delegates, and persons elected or appointed to an office.

“person elected or appointed to an office” means any person elected or appointed under Part 3 of these Rules.

2. Amend rule 1.3(b)(x) as follows:

1.3 - GOVERNING COUNCIL – POWERS

- x. in respect of any particular matter, and without limiting any specific delegation contained in these Rules, delegate a power or task to a specified Officer of the PSU Group or a specified Committee or Council other than a power contained in the following Rules, except that where a specific power or task must be exercised by an Officer, as defined in the RAO Schedule of the Workplace Relations Act 1996, that power or task shall only be delegated to an Officer, so defined, or a Committee or Council constituted only of Officers, so defined:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council

- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
- 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
- 4.10 subscriptions
- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) establishing a Delegate Standard.

3. Amend rule 1.10(b) as follows

1.10 - EXECUTIVE COMMITTEE – POWERS

b. The Executive Committee shall not exercise any of the powers of the Governing Council in relation to Rules specified herein:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
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- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) establishing a Delegate Standard

4. Amend rule 2.3(e) as follows:

2.3 - WORKPLACE DELEGATES

e. A Delegate, acting in accordance with the Delegate Standard, may carry out any lawful task authorised by the Union or these Rules, which includes but is not limited to the following authorised tasks:

- i. distributing authorised Union publications and bulletins to workers;
- ii. calling and conducting meetings of members and workers;
- iii. recruiting workers to join the Union;
- iv. canvassing the workers to identify matters of concern;
- v. acting as a representative or witness for a member in a workplace matter;
- vi. meeting with relevant management representatives;
- vii. putting authorised Union publications on Union notice boards; and
- viii. organising workers to participate in lawful action authorised by the Union.

5. Amend rule 2.4(g) as follows:

2.4 - WORKPLACE REPRESENTATIVES

g. A Workplace Representative shall be removed from the list of authorised Workplace Representatives by the Governing Council if they cease to be a member of the Union, where the Workplace Representative has failed to comply with Union policy or acted contrary to **the Delegate Standard** or a decision or direction of a relevant body or official, by a majority vote of a meeting of members in the workplace, or where they are not re-credentialed in accordance with paragraph (e).

6. *Amend rule 5.15(a) as follows*

5.15 - REMOVAL FROM OFFICE BY GOVERNING COUNCIL

a. The Governing Council, if two-thirds of its members present and entitled to vote so decide, may at any time remove from office any ~~officer elected or appointed person elected or appointed to an office~~ under these Rules who has:

- i. Misappropriated the funds of the PSU Group.
- ii. Committed a substantial breach of the Rules.
- iii. Been found guilty of gross misbehaviour or gross neglect of duty.

7. *Amend rule 5.16(a) as follows*

5.16 - "NO CONFIDENCE" MOTIONS

a. A motion of "no confidence" in a ~~n Officer person elected or appointed to an office~~ may be moved at a meeting of Governing Council or Section Council provided that:

- i. notice of such motion was given at a previous meeting.
- ii. notice of intention, including the substantial details of the allegation, are given in writing to the officer at least 21 days prior to the meeting.
- iii. the ~~an Officer~~ person elected or appointed to an office is given adequate time and opportunity to reply to the allegation at the meeting.

8. *Amend rule 5.18 as follows:*

5.18 - DISPUTES AND CHARGES

a. The following are offences with which a member may be charged under this Rule.

- i. misappropriation of the funds of the Union.
- ii. a substantial breach of the Rules of the Union.
- iii. gross misbehaviour or gross neglect of duty.
- iv. an infringement of the Union's Rules, resolutions, or directions lawfully given.

b. A member may lay a charge, ~~within 28 days of the occurrence of the alleged offence,~~ against any other member alleging that member has been guilty of one or more of the offences mentioned in paragraph (a).

c. Any such charge shall be in writing, ~~accompanied by a deposit of \$100,~~ signed by the member laying the charge and shall be delivered to the National Secretary. ~~The deposit shall be retained by the National Secretary until the charge is finally dealt with.~~

d. Within 7 days of receiving such charge, the National Secretary shall forward the original charge to the Chair of the Disputes Tribunal and forward a copy to the member charged.

e. The Executive Committee may instruct the National Secretary or another National Officer to lay a charge on its behalf against a member. ~~The provisions of paragraph (c) as to a deposit shall not apply to such a charge.~~

- f. A charge must, in order to be valid, state clearly the nature of the offence alleged, the date or dates of the occurrence of the offence alleged and must also contain particulars of the alleged facts on which the charge is based.
- g. As soon as a charge is laid under this Rule, no discussion of the matter shall take place at any meeting held under these Rules until such time as the charge is finally dealt with.
- h. ~~Notwithstanding paragraph (b), a charge against an officer alleging an offence of the kind set out in subparagraphs (i) to (iii) of paragraph (a) may be laid by a member at any time. If an alleged offence would constitute non-compliance with the Delegate Standard, the National Secretary may deal with the charge under rule 5.25 instead of the process under this rule.~~
- i. Should a charge be laid against the National Secretary, references in paragraphs (c), (d) and (e) shall be read as references to the National President.

9. Amend rule 5.19 as follows:

5.19 - DISPUTES TRIBUNALS

- a. Disputes Tribunals of 3 members shall be appointed from time to time by the Executive Committee for the purposes of hearing charges under Rule 5.18. Where a member of a Disputes Tribunal is a person who is subject to a charge under Rule 5.18 then that person shall not be a member of the Tribunal that determines the charge.
- b. The Disputes Tribunal shall be reimbursed by the Executive Committee for all necessary out of pocket expenses.
- c. The Disputes Tribunal may, subject to these Rules, establish its own procedures. Hearings of the Disputes Tribunal may be held by telephone or video conference.
- d. Any member charged shall be entitled to be represented at any hearing of the Disputes Tribunal.
- e. A Disputes Tribunal, may after consideration of the charge made, conclude that there is no case to answer and accordingly dismiss the charge without holding any hearing.
- f. In the event of the Tribunal finding that there is a prima facie case to answer, it shall proceed to hear the charge and afterwards notify its recommendation in writing as soon as practicable to the member charged, the member laying the charge and the National Secretary or National President.
- g. Any member charged shall attend at a time and place fixed by members of the Disputes Tribunal.
- h. No member shall be required to attend before a Disputes Tribunal without receiving reasonable travel expenses and compensation for loss of pay.
- i. If the Disputes Tribunal considers that a member is guilty of the charge alleged under Rule 5.18, ~~it may issue the member with a formal warning~~ or it may recommend to the Governing Council one or more of the following:
 - ~~i. imposition of a fine not exceeding \$250; or~~
 - ii. deprivation of any right of membership for any specified period not exceeding six months; or
 - iii. removal of the member from any office or position if any of the offences set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- j. The member charged may, within 21 days of the forwarding of the Disputes Tribunal recommendation, provide a written response to the National Secretary.
- k. Not earlier than the expiration of the 21 day period as provided in paragraph (j), the National Secretary shall submit the recommendation of the Disputes Tribunal, and any response from the member charged, to the Governing Council for determination under Rule 1.4, 1.5 or 1.6.
- l. ~~After the Governing Council has dealt with the recommendation, the Disputes Tribunal shall direct the National Secretary to either refund the deposit to the member laying the charge or pay the deposit into the PSU Group's funds.~~

10. *Insert new rule 5.25 as follows*

5.25 – DELEGATE STANDARD

- a. Governing Council may establish a Delegate Standard to impose standards of conduct on elected representatives.
- b. Governing Council may establish procedures for managing complaints and dealing with breaches of the Delegate Standard that are consistent with this rule.
- c. Governing Council may establish a Standards Committee made up of at least 3 Governing Council members.
- d. Elected representatives must comply with the Delegate Standard.
- e. A member may make a complaint about an elected representative to the National Secretary if the member believes that the elected representative has not complied with the Delegate Standard.
- f. The National Secretary may dismiss a complaint without investigation if:
 - i. The complaint, if proven, would not constitute a breach of the Delegate Standard, or
 - ii. The complaint is vexatious, frivolous, unreasonable or malicious.
- g. Any decision to dismiss a complaint will be in writing setting out the reasons for the decision.
- h. The National Secretary may initially attempt to resolve the complaint informally through discussion, mediation or other processes.
- i. If the above processes are not appropriate or fail to resolve the complaint, an investigation may be done by the National Secretary. An independent investigator may be appointed where appropriate.
- j. Following the investigation, a report will be provided to the Standards Committee which may include recommendations.
- k. The Standards Committee will:
 - i. Review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Delegate Standard, and
 - ii. If the conduct does constitute a breach, determine an appropriate sanction.
- l. Sanctions for breach of the Delegate Standard may include:
 - i. A formal warning,
 - ii. Deprivation of the rights attaching to membership for a specified period up to 6 months, or
 - iii. Removal from office - only if any of the grounds set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- m. The person who is the subject of the complaint must be afforded procedural fairness throughout this process.
- n. The National Secretary will, as far as practicable, give effect to the sanction determined by the Standards Committee.
- o. The National Secretary may remove a deputy delegate or delegate from their elected position in accordance with this process.
- p. The removal of a Section Councillor, Section Officer, Governing Councillor or National Officer may only proceed with a two-thirds majority support vote of Governing Council in accordance with rule 5.15.
- q. The National Secretary may delegate their powers and responsibilities under this rule, other than the power in paragraph (n), to another National Officer or staff member of the PSU Group.
- r. If a complaint relates to the National Secretary, references to the National Secretary in this rule should be read as references to the National President.

Attachments:

GC 2.2021 GC Out of Session vote - Delegate Standard.docx

Dear Governing Council,

Thanks to everyone who has already returned their vote so far, and just a reminder to please return your vote asap if you haven't already done so.

Please note that votes must be returned by **COB Friday 10 December 2021** (not 9 December as previously advised, my apologies for this error).

Thanks, Kathryn

From: Melissa Donnelly <Melissa.Donnelly@cpsu.org.au>

Sent: Friday, 26 November 2021 1:55 PM

Subject: Governing Council: Update and Out of Session Vote (please vote by 9 December)

Dear Governing Council

I hope you're all well and, for those that have been in various lockdowns, getting to enjoy greater freedoms.

APS Inc: Senate Committee Report into APS Capability

Late yesterday the Senate Finance and Public Administration Committee tabled its report into APS capability. The Report titled "APS Inc" is damning in its assessment of the Government's policies on labour hire, outsourcing and use of consultants and makes a range of important recommendations including

- Abolishing the ASL cap
- Ensuring direct permanent employment is the principal mode of employment and labour hire arrangements are only used where APS employment is impossible and on the basis of same job same pay
- Identifying where work has been contracted out to labour hire companies and return this work to APS employment
- Limiting the length of rolling fixed term labour hire contracts to 12 months

- Establishing an internal APS consultancy hub to provide in house services to agencies, with responsibility for assessing and approving all requests from agencies to engage external consultants
- Implement genuine bargaining across the APS, removing the WPI wage cap, rule against no enhancements and implementing real consultation rights.

We have advised members about the Report and will be hosting a member forum to discuss the Report's findings with Committee Chair Tim Ayres on Wednesday 8 December.

In the meantime,

- You can read our press release here:
https://www.cpsu.org.au/CPSU/Content/Media_releases/Morrison_Government_labour_hire_lie.aspx
- You can read the report here:
https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/CurrentAPSCapabilities/Report

Governing Council Out of Session Vote: Rule Change – Delegate Standard

Following our recent Governing Council meeting, we have now prepared the proposed rule changes required to give effect to the Delegate Standard and are putting that to Governing Council for an out of session vote.

GC Members, can you please return your votes by email within 14 days to [REDACTED] (by COB 10 December 2021).

The attached Out of Session votes include the motion, background to the proposals and notes on the relevant Rules. Please note the following:

1. To comply with the Rules of the union you need to send a 'Yes' or 'No' vote without qualification.
2. Under CPSU rules proxy votes are not permitted.
3. Due to the time of year, we would request that you vote as soon as possible.

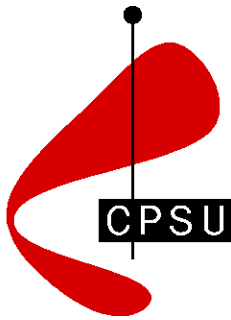
If you have any questions please don't hesitate to get in touch with me or your EC member.

In unity,
Mel



Melissa Donnelly [REDACTED]
[REDACTED]

CPSU acknowledges the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to culture, language, land, waters and community. We pay our respects to their Elders, past, present and emerging.



Governing Council Declaration

To: Members of Governing Council

From: Melissa Donnelly
National Secretary

Date: 10 December 2021

Subject: Rule 1.6 Governing Council of Session Vote
2.2021 Delegates Standard

Background to the Proposal

At the Governing Council meeting in October 2021, Governing Council endorsed a Delegate Standard to articulate the values by which delegates should carry out their duties. This Standard currently has effect as Governing Council policy and was adopted after detailed consideration and involvement of Governing Councillors.

It is proposed that the Delegate Standard will be given effect in the following:

- A. Delegate Standard – adopted by Governing Council as policy in October 2021
- B. Rule change to create a framework of powers and procedural fairness rights – as outlined in this proposal
- C. Procedures for the handing of complaints and dealing with breaches of the Standard – to be determined by Governing Council when the rule change takes effect.

This proposal sets out the detail of that proposed rule change in Step B above.

Detailed Outline of Proposed Changes:

1. New definitions

It is proposed that the Delegate Standard would apply to 'elected representatives' of the CPSU.

GC 2021

The **new definition of 'elected representatives'** covers Delegates, Deputy Delegates, Section Councillors, Section Officers, Governing Councillors and the National Officers (Executive Committee).

There are currently other CPSU rules relating to disciplinary processes that only apply to section councillors, section officers, governing councillors and national officers and **don't apply to** delegates or deputy delegates. These rules all use variations of the term **'person elected to office'** and include rules 5.14 DISMISSAL OF ELECTED OFFICERS, 5.15 REMOVAL FROM OFFICE BY GOVERNING COUNCIL and **5.16 "NO CONFIDENCE" MOTIONS**.

None of these terms are defined in the rules. To create clarity between the scope of these provisions and the scope of the Delegate Standard, and to create consistency in terminology, the following changes are proposed:

- A new definition would be **inserted defining 'person elected or appointed to an office'** as any person elected or appointed under Part 3 of these Rules (this includes all elected roles except delegates and deputy delegates who are elected under Part 2 of the Rules).
- A new definition would be inserted defining **'elected representative' to include** delegates, deputy delegates, and persons elected or appointed to an office.
- Rules 5.15 and 5.16 would be amended to **apply to a 'person elected or appointed to an office' consistent with the terminology in 5.14** and the new definition.

These amendments will not change the scope or effect of rules 5.14, 5.15 and 5.16.

2. Power to create Delegate Standard and relevant frameworks

The proposed changes would insert the following new provisions:

- 5.25(a) – would give Governing Council the power to establish a Delegate Standard to impose standards of conduct on elected representatives
- 5.25(b) – would give Governing Council the power to establish procedures for managing complaints and dealing with breaches of the Delegate Standard that are consistent with the Rules.
- 5.25(c) – would give the Governing Council the power to establish a Standards Committee made up of at least 3 Governing Council members.
- 5.25(d) – would require all elected representatives to comply with the Delegate Standard.

The establishment or alteration of the Delegate Standard can only be done by Governing Council and cannot be delegated to the Executive Committee. However, amendments to the procedures or the establishment of the Standards Committee could be done by the Executive Committee when Governing Council is not in session in a manner consistent with Governing Council policy.

3. Complaint process

GC 2021

(a) Member right to make a complaint

Proposed rule 5.25(e) would allow a member to make a complaint about an elected representative to the National Secretary if the member believes that the elected representative has not complied with the Delegate Standard.

Rule 5.25(r) would provide that any complaint that relates to the National Secretary would be made to the **National President and the National Secretary's role in the investigation process** would be undertaken by the National President.

(b) Assessment of complaint

Proposed rule 5.25(f) would allow a complaint to be dismissed without investigation if:

- The complaint, if proven, would not constitute a breach of the Standard, or
- The complaint is vexatious, frivolous, unreasonable or malicious.

5.25(g) would require any decision to dismiss a complaint to be in writing setting out the reasons for the decision. For further transparency, the GC procedures would be able to require decisions to dismiss complaints to be notified to the Standards Committee.

Proposed Rule 5.25(h) would give the National Secretary, or their delegate under 5.25(q), the ability to attempt to resolve a complaint informally where that is appropriate.

Where an informal resolution is not appropriate, proposed Rule 5.25(i) allows the National Secretary to commence the investigation phase immediately.

(c) Investigation process – responsibilities of National Secretary

The National Secretary, or their delegate under 5.25(q), would be responsible for conducting the initial investigation, providing a report to the Standards Committee, and giving effect to any sanction.

5.25(i) – would give the National Secretary the power to conduct an investigation and appoint an external investigator if appropriate.

5.25(j) – would require the National Secretary to provide a report of the investigation to the Standards Committee which may include recommendations.

5.25(n) – would require the National Secretary to give effect to the sanction determined by the Standards Committee as far as practicable. This power cannot be delegated.

5.25(o) – gives the National Secretary the power to remove a deputy delegate or deputy delegate from their elected position if that sanction is determined by the Standards Committee.

(d) Role of Standards Committee

GC 2021

The Standards Committee would be the decision maker and determine the sanction to be applied. Proposed Rule 5.25(k) requires the Standards Committee to:

- i. Review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Delegate Standard, and
- ii. If the conduct does constitute a breach, determine an appropriate sanction.

4. Procedural Fairness

Proposed Rule 5.25(m) requires that the person subject of the complaint must be afforded procedural fairness throughout the process.

The Governing Council procedures would be able to provide more detail about how the procedural fairness rights would operate and other steps in the process.

5. Sanctions

The sanctions that may be applied for a breach of the Delegate Standard are set out in proposed rule 5.25(l) are a formal warning, deprivation of the rights attaching to membership for a specified period of up to 6 months, and removal from office.

Removal from office may only be applied if the breach of the Delegate Standard involves one of the grounds listed in rule 5.15(a)(i)-(iii), namely:

- Misappropriation the funds of the PSU Group.
- A substantial breach of the Rules.
- Gross misbehaviour or gross neglect of duty.

This limitation is a requirement of s141(1)(c) of the *Fair Work (Registered Organisations) Act 2009*.

To respect and preserve the industrial democracy within Sections, further limitations would apply to the circumstances in which elected officers at Section Council level and above may be removed from office.

5.25(p) – would provide that the removal of a Section Councillor, Section Officer, Governing Councillor or National Officer may only proceed with a two-thirds majority support vote of Governing Council in accordance with rule 5.15. Rule 5.15 currently provides the mechanism for Section Councillors, Section Officers, Governing Councillors or National Officers to be removed from office by Governing Council.

The Governing Council procedures could also provide for consultation or coordination with the relevant Section Council before the removal of a Section Councillor, Section Officer or Governing Councillor from office is recommended as a sanction.

6. Amendments to the Disputes and Charges Process

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The following rule **changes are proposed to improve members' access to this process:**

- Rule 5.18(b) would be amended, and Rule 5.18(h) would be deleted to remove the 28-day time limit for bringing a charge in relation to an offence under 5.18(iv).
- Rules 5.18(c) and (e) would be amended, and Rule 5.19(l) would be deleted to remove the requirement for a member to pay a deposit of \$100 when laying charge.
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As they are not elected to their position, Workplace Representatives will not be covered by the Delegate Standard rule and enforcement process, but it is proposed that they will be required to act in accordance with the Standard.

Rule 2.4(g) would be amended to insert acting contrary to the Delegate Standard as a reason for which a Workplace Representative may be removed from the list of Authorised Workplace Representatives by the Governing Council.

For clarity, Rule 2.3(e) would be amended to require that Delegates act in accordance with the Delegate Standard when carrying out their tasks.

Overview of the CPSU Rules

The CPSU is comprised of two groups, the PSU Group (us) and the SPSF Group which is made up of the state public sector unions who are part of the CPSU. The National Officers Committee (NOC) is made up of PSU Group and SPSF Group representatives.

GC 2021

The proposed rule changes contained in this Out of Session Vote require approval by NOC on the recommendation of the CPSU PSU Group Governing Council.

As a member of the PSU Group Governing Council, you are being asked to approve a recommendation to the NOC that it approve the attached changes to Chapter B of the rules.

If the PSU Group Governing Council approves the proposed rule changes to Chapter B, the approval of NOC will be sought and then an application lodged with the Fair Work Commission.

The Executive Committee recommends the changes and seeks your support for the motion by sending **a 'Yes' or 'No' vote without** qualification. Please note that under CPSU rules proxy votes are not permitted.

Resolution:

***"To** define the values by which elected representatives should carry out their duties by enabling the creation of an enforceable Delegate Standard and procedures, and to improve **members'** access to the existing Disputes and Charges provisions, the Governing Council approves the following alterations to Chapter B of the rules of the CPSU and recommends their approval by the National Officers Committee:*

Chapter B – PSU Group

1. *Before rule 1.1 after the words 'In this Chapter' insert:*

"elected representative" includes delegates, deputy delegates, and persons elected or appointed to an office.

"person elected or appointed to an office" means any person elected or appointed under Part 3 of these Rules.

2. *Amend rule 1.3(b)(x) as follows:*

1.3 - GOVERNING COUNCIL – POWERS

- x. in respect of any particular matter, and without limiting any specific delegation contained in these Rules, delegate a power or task to a specified Officer of the PSU Group or a specified Committee or Council other than a power contained in the following Rules, except that where a specific power or task must be exercised by an Officer, as defined in the RAO Schedule of the Workplace Relations Act 1996, that power or task shall only be delegated to an Officer, so defined, or a Committee or Council constituted only of Officers, so defined:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,

GC 2021

- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
- 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
- 4.10 subscriptions
- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) establishing a Delegate Standard.

3. Amend rule 1.10(b) as follows

1.10 - EXECUTIVE COMMITTEE – POWERS

- b. The Executive Committee shall not exercise any of the powers of the Governing Council in relation to Rules specified herein:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
- 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
- 4.10 subscriptions
- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) establishing a Delegate Standard

4. Amend rule 2.3(e) as follows:

2.3 - WORKPLACE DELEGATES

- e. A Delegate, acting in accordance with the Delegate Standard, may carry out any lawful task authorised by the Union or these Rules, which includes but is not limited to the following authorised tasks:
 - i. distributing authorised Union publications and bulletins to workers;
 - ii. calling and conducting meetings of members and workers;
 - iii. recruiting workers to join the Union;
 - iv. canvassing the workers to identify matters of concern;
 - v. acting as a representative or witness for a member in a workplace matter;
 - vi. meeting with relevant management representatives;
 - vii. putting authorised Union publications on Union notice boards; and
 - viii. organising workers to participate in lawful action authorised by the Union.

5. Amend rule 2.4(g) as follows:

2.4 - WORKPLACE REPRESENTATIVES

g. A Workplace Representative shall be removed from the list of authorised Workplace Representatives by the Governing Council if they cease to be a member of the Union, where the Workplace Representative has failed to comply with Union policy or acted contrary to **the Delegate Standard** or a decision or direction of a relevant body or official, by a majority vote of a meeting of members in the workplace, or where they are not re-credentialed in accordance with paragraph (e).

6. *Amend rule 5.15(a) as follows*

5.15 - REMOVAL FROM OFFICE BY GOVERNING COUNCIL

a. The Governing Council, if two-thirds of its members present and entitled to vote so decide, may at any time remove from office any ~~officer elected or appointed person elected or appointed to an office~~ under these Rules who has:

- i. Misappropriated the funds of the PSU Group.
- ii. Committed a substantial breach of the Rules.
- iii. Been found guilty of gross misbehaviour or gross neglect of duty.

7. *Amend rule 5.16(a) as follows*

5.16 - "NO CONFIDENCE" MOTIONS

a. A motion of "no confidence" in a ~~n-Officer person elected or appointed to an office~~ may be moved at a meeting of Governing Council or Section Council provided that:

- i. notice of such motion was given at a previous meeting.
- ii. notice of intention, including the substantial details of the allegation, are given in writing to the officer at least 21 days prior to the meeting.
- iii. the ~~an-Officer~~ person elected or appointed to an office is given adequate time and opportunity to reply to the allegation at the meeting.

8. *Amend rule 5.18 as follows:*

5.18 - DISPUTES AND CHARGES

a. The following are offences with which a member may be charged under this Rule.

- i. misappropriation of the funds of the Union.
- ii. a substantial breach of the Rules of the Union.
- iii. gross misbehaviour or gross neglect of duty.
- iv. an infringement of the Union's Rules, resolutions, or directions lawfully given.

b. A member may lay a charge, ~~within 28 days of the occurrence of the alleged offence,~~ against any other member alleging that member has been guilty of one or more of the offences mentioned in paragraph (a).

c. Any such charge shall be in writing, ~~accompanied by a deposit of \$100,~~ signed by the member laying the charge and shall be delivered to the National Secretary. ~~The deposit shall be retained by the National Secretary until the charge is finally dealt with.~~

d. Within 7 days of receiving such charge, the National Secretary shall forward the original charge to the Chair of the Disputes Tribunal and forward a copy to the member charged.

- e. The Executive Committee may instruct the National Secretary or another National Officer to lay a charge on its behalf against a member. ~~The provisions of paragraph (c) as to a deposit shall not apply to such a charge.~~
- f. A charge must, in order to be valid, state clearly the nature of the offence alleged, the date or dates of the occurrence of the offence alleged and must also contain particulars of the alleged facts on which the charge is based.
- g. As soon as a charge is laid under this Rule, no discussion of the matter shall take place at any meeting held under these Rules until such time as the charge is finally dealt with.
- h. ~~Notwithstanding paragraph (b), a charge against an officer alleging an offence of the kind set out in subparagraphs (i) to (iii) of paragraph (a) may be laid by a member at any time. If an alleged offence would constitute non-compliance with the Delegate Standard, the National Secretary may deal with the charge under rule 5.25 instead of the process under this rule.~~
- i. Should a charge be laid against the National Secretary, references in paragraphs (c), (d) and (e) shall be read as references to the National President.

9. Amend rule 5.19 as follows:

5.19 - DISPUTES TRIBUNALS

- a. Disputes Tribunals of 3 members shall be appointed from time to time by the Executive Committee for the purposes of hearing charges under Rule 5.18. Where a member of a Disputes Tribunal is a person who is subject to a charge under Rule 5.18 then that person shall not be a member of the Tribunal that determines the charge.
- b. The Disputes Tribunal shall be reimbursed by the Executive Committee for all necessary out of pocket expenses.
- c. The Disputes Tribunal may, subject to these Rules, establish its own procedures. Hearings of the Disputes Tribunal may be held by telephone or video conference.
- d. Any member charged shall be entitled to be represented at any hearing of the Disputes Tribunal.
- e. A Disputes Tribunal, may after consideration of the charge made, conclude that there is no case to answer and accordingly dismiss the charge without holding any hearing.
- f. In the event of the Tribunal finding that there is a prima facie case to answer, it shall proceed to hear the charge and afterwards notify its recommendation in writing as soon as practicable to the member charged, the member laying the charge and the National Secretary or National President.
- g. Any member charged shall attend at a time and place fixed by members of the Disputes Tribunal.
- h. No member shall be required to attend before a Disputes Tribunal without receiving reasonable travel expenses and compensation for loss of pay.
- i. If the Disputes Tribunal considers that a member is guilty of the charge alleged under Rule 5.18, ~~it may issue the member with a formal warning~~ or it may recommend to the Governing Council one or more of the following:
 - ~~i. — imposition of a fine not exceeding \$250; or—~~
 - ii. deprivation of any right of membership for any specified period not exceeding six months; or
 - iii. removal of the member from any office or position if any of the offences set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- j. The member charged may, within 21 days of the forwarding of the Disputes Tribunal recommendation, provide a written response to the National Secretary.
- k. Not earlier than the expiration of the 21 day period as provided in paragraph (j), the National Secretary shall submit the recommendation of the Disputes Tribunal, and any

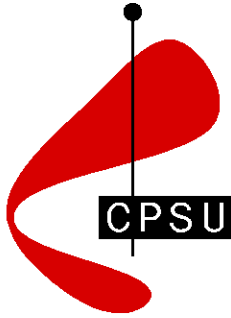
response from the member charged, to the Governing Council for determination under Rule 1.4, 1.5 or 1.6.

~~l. After the Governing Council has dealt with the recommendation, the Disputes Tribunal shall direct the National Secretary to either refund the deposit to the member laying the charge or pay the deposit into the PSU Group's funds.~~

10. *Insert new rule 5.25 as follows*

5.25 – DELEGATE STANDARD

- a. Governing Council may establish a Delegate Standard to impose standards of conduct on elected representatives.
- b. Governing Council may establish procedures for managing complaints and dealing with breaches of the Delegate Standard that are consistent with this rule.
- c. Governing Council may establish a Standards Committee made up of at least 3 Governing Council members.
- d. Elected representatives must comply with the Delegate Standard.
- e. A member may make a complaint about an elected representative to the National Secretary if the member believes that the elected representative has not complied with the Delegate Standard.
- f. The National Secretary may dismiss a complaint without investigation if:
 - i. The complaint, if proven, would not constitute a breach of the Delegate Standard,
 - or
 - ii. The complaint is vexatious, frivolous, unreasonable or malicious.
- g. Any decision to dismiss a complaint will be in writing setting out the reasons for the decision.
- h. The National Secretary may initially attempt to resolve the complaint informally through discussion, mediation or other processes.
- i. If the above processes are not appropriate or fail to resolve the complaint, an investigation may be done by the National Secretary. An independent investigator may be appointed where appropriate.
- j. Following the investigation, a report will be provided to the Standards Committee which may include recommendations.
- k. The Standards Committee will:
 - i. Review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Delegate Standard, and
 - ii. If the conduct does constitute a breach, determine an appropriate sanction.
- l. Sanctions for breach of the Delegate Standard may include:
 - i. A formal warning,
 - ii. Deprivation of the rights attaching to membership for a specified period up to 6 months, or
 - iii. Removal from office - only if any of the grounds set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- m. The person who is the subject of the complaint must be afforded procedural fairness throughout this process.
- n. The National Secretary will, as far as practicable, give effect to the sanction determined by the Standards Committee.
- o. The National Secretary may remove a deputy delegate or delegate from their elected position in accordance with this process.



Community & Public Sector Union

To: The Officers of the NOC

From: Melissa Donnelly, National Secretary, CPSU PSU Group
Karen Batt, National Secretary, CPSU SPSF Group

Date: 17 December 2021

Subject: **Rule 17(f) - NOC Out of Session Vote 1.2021 –Delegate Standard**

Purpose

To seek the approval of the National Officers Committee (NOC) for a proposal to alter the Chapter B rules of the CPSU relating to the PSU Group. The proposed amendment would establish a framework of powers and procedural fairness rights to facilitate the creation of an enforceable delegate standard (code of conduct) for PSU Group delegates.

The proposed amendments are contained in the draft resolution below.

It is requested that NOC members vote by 20 January 2022. Please note proxy arrangements may be used for a NOC Out of Session Vote.

A voting paper is at the end of this memo.

Background to the amendments to the Chapter B Rules

The background of this matter and an explanation of the proposed changes are contained in Governing Council Paper *GC 2.2021- 7.1 Delegate Code and Procedures* which is attached to this memorandum at Attachment A, and the memorandum of Melissa Donnelly to the PSU Group Governing Council entitled "*Governing Council Out of Session Vote 2.2021: Delegate Standard*" ("The Governing Council Memo") which is attached to this memorandum at Attachment B.

On 26 November 2021 the Governing Council Memo was sent to the PSU Group Governing Councillors for an out of session vote. The memo included a motion to be endorsed,

recommending the rule change to the NOC for approval. The memo requested that votes be cast by 9 December 2021. A reminder email was sent to the PSU Governing Council on 7 December 2021 clarifying that voting would be open until COB 10 December 2021.

On 10 December 2021 the out of session vote of the Governing Council was declared and the resolution was carried. The declaration for this vote is attached to this memorandum as Attachment C.

Resolution

That the National Officers Committee, on the recommendation of the PSU Group Governing Council, votes to approve the following amendments to the Chapter B Rules in accordance with the NOC powers provided for in Chapter A rule 15(d)(ii):

Chapter B – PSU Group

1. Before rule 1.1 after the words ‘In this Chapter’ insert:

“**elected representative**” includes delegates, deputy delegates, and persons elected or appointed to an office.

“**person elected or appointed to an office**” means any person elected or appointed under Part 3 of these Rules.

2. Amend rule 1.3(b)(x) as follows:

1.3 - GOVERNING COUNCIL – POWERS

x. in respect of any particular matter, and without limiting any specific delegation contained in these Rules, delegate a power or task to a specified Officer of the PSU Group or a specified Committee or Council other than a power contained in the following Rules, except that where a specific power or task must be exercised by an Officer, as defined in the RAO Schedule of the Workplace Relations Act 1996, that power or task shall only be delegated to an Officer, so defined, or a Committee or Council constituted only of Officers, so defined:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
- 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
- 4.10 subscriptions
- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) establishing a Delegate Standard.

3. Amend rule 1.10(b) as follows

1.10 - EXECUTIVE COMMITTEE – POWERS

b. The Executive Committee shall not exercise any of the powers of the Governing Council in relation to Rules specified herein:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
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- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) establishing a Delegate Standard

4. Amend rule 2.3(e) as follows:

2.3 - WORKPLACE DELEGATES

e. A Delegate, acting in accordance with the Delegate Standard, may carry out any lawful task authorised by the Union or these Rules, which includes but is not limited to the following authorised tasks:

- i. distributing authorised Union publications and bulletins to workers;
- ii. calling and conducting meetings of members and workers;
- iii. recruiting workers to join the Union;
- iv. canvassing the workers to identify matters of concern;
- v. acting as a representative or witness for a member in a workplace matter;
- vi. meeting with relevant management representatives;
- vii. putting authorised Union publications on Union notice boards; and
- viii. organising workers to participate in lawful action authorised by the Union.

5. Amend rule 2.4(g) as follows:

2.4 - WORKPLACE REPRESENTATIVES

g. A Workplace Representative shall be removed from the list of authorised Workplace Representatives by the Governing Council if they cease to be a member of the Union, where the Workplace Representative has failed to comply with Union policy or acted contrary to the Delegate Standard or a decision or direction of a relevant body or official, by a majority vote of a meeting of members in the workplace, or where they are not re-credentialed in accordance with paragraph (e).

6. Amend rule 5.15(a) as follows

5.15 - REMOVAL FROM OFFICE BY GOVERNING COUNCIL

a. The Governing Council, if two-thirds of its members present and entitled to vote so decide, may at any time remove from office any ~~officer elected or appointed~~ person elected or appointed to an office under these Rules who has:

- i. Misappropriated the funds of the PSU Group.
- ii. Committed a substantial breach of the Rules.
- iii. Been found guilty of gross misbehaviour or gross neglect of duty.

7. Amend rule 5.16(a) as follows

5.16 - "NO CONFIDENCE" MOTIONS

- a. A motion of "no confidence" in ~~an Officer~~ **person elected or appointed to an office** may be moved at a meeting of Governing Council or Section Council provided that:
 - i. notice of such motion was given at a previous meeting.
 - ii. notice of intention, including the substantial details of the allegation, are given in writing to the officer at least 21 days prior to the meeting.
 - iii. the ~~an Officer~~ **person elected or appointed to an office** is given adequate time and opportunity to reply to the allegation at the meeting.

8. Amend rule 5.18 as follows:

5.18 - DISPUTES AND CHARGES

- a. The following are offences with which a member may be charged under this Rule.
 - i. misappropriation of the funds of the Union.
 - ii. a substantial breach of the Rules of the Union.
 - iii. gross misbehaviour or gross neglect of duty.
 - iv. an infringement of the Union's Rules, resolutions, or directions lawfully given.
- b. A member may lay a charge, ~~within 28 days of the occurrence of the alleged offence,~~ against any other member alleging that member has been guilty of one or more of the offences mentioned in paragraph (a).
- c. Any such charge shall be in writing, ~~accompanied by a deposit of \$100,~~ signed by the member laying the charge and shall be delivered to the National Secretary. ~~The deposit shall be retained by the National Secretary until the charge is finally dealt with.~~
- d. Within 7 days of receiving such charge, the National Secretary shall forward the original charge to the Chair of the Disputes Tribunal and forward a copy to the member charged.
- e. The Executive Committee may instruct the National Secretary or another National Officer to lay a charge on its behalf against a member. ~~The provisions of paragraph (c) as to a deposit shall not apply to such a charge.~~
- f. A charge must, in order to be valid, state clearly the nature of the offence alleged, the date or dates of the occurrence of the offence alleged and must also contain particulars of the alleged facts on which the charge is based.
- g. As soon as a charge is laid under this Rule, no discussion of the matter shall take place at any meeting held under these Rules until such time as the charge is finally dealt with.
- h. ~~Notwithstanding paragraph (b), a charge against an officer alleging an offence of the kind set out in subparagraphs (i) to (iii) of paragraph (a) may be laid by a member at any time.~~ **If an alleged offence would constitute non-compliance with the Delegate Standard, the National Secretary may deal with the charge under rule 5.25 instead of the process under this rule.**
- i. Should a charge be laid against the National Secretary, references in paragraphs (c), (d) and (e) shall be read as references to the National President.

9. Amend rule 5.19 as follows:

5.19 - DISPUTES TRIBUNALS

- a. Disputes Tribunals of 3 members shall be appointed from time to time by the Executive Committee for the purposes of hearing charges under Rule 5.18. Where a member of a Disputes Tribunal is a person who is subject to a charge under Rule 5.18 then that person shall not be a member of the Tribunal that determines the charge.
- b. The Disputes Tribunal shall be reimbursed by the Executive Committee for all necessary out of pocket expenses.
- c. The Disputes Tribunal may, subject to these Rules, establish its own procedures. Hearings of the Disputes Tribunal may be held by telephone or video conference.
- d. Any member charged shall be entitled to be represented at any hearing of the Disputes Tribunal.
- e. A Disputes Tribunal, may after consideration of the charge made, conclude that there is no case to answer and accordingly dismiss the charge without holding any hearing.
- f. In the event of the Tribunal finding that there is a prima facie case to answer, it shall proceed to hear the charge and afterwards notify its recommendation in writing as soon as practicable to the member charged, the member laying the charge and the National Secretary or National President.
- g. Any member charged shall attend at a time and place fixed by members of the Disputes Tribunal.
- h. No member shall be required to attend before a Disputes Tribunal without receiving reasonable travel expenses and compensation for loss of pay.
- i. If the Disputes Tribunal considers that a member is guilty of the charge alleged under Rule 5.18, **it may issue the member with a formal warning** or it may recommend to the Governing Council one or more of the following:
 - ~~i. imposition of a fine not exceeding \$250; or~~
 - ii. deprivation of any right of membership for any specified period not exceeding six months; or
 - iii. removal of the member from any office or position if any of the offences set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- j. The member charged may, within 21 days of the forwarding of the Disputes Tribunal recommendation, provide a written response to the National Secretary.
- k. Not earlier than the expiration of the 21 day period as provided in paragraph (j), the National Secretary shall submit the recommendation of the Disputes Tribunal, and any response from the member charged, to the Governing Council for determination under Rule 1.4, 1.5 or 1.6.
- ~~l. After the Governing Council has dealt with the recommendation, the Disputes Tribunal shall direct the National Secretary to either refund the deposit to the member laying the charge or pay the deposit into the PSU Group's funds.~~

10. Insert new rule 5.25 as follows:

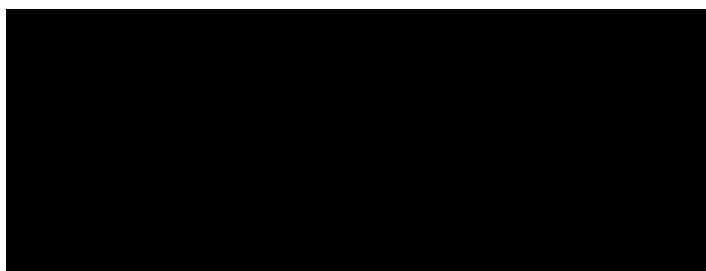
5.25 – DELEGATE STANDARD

- a. Governing Council may establish a Delegate Standard to impose standards of conduct on elected representatives.
- b. Governing Council may establish procedures for managing complaints and dealing with breaches of the Delegate Standard that are consistent with this rule.
- c. Governing Council may establish a Standards Committee made up of at least 3 Governing Council members.
- d. Elected representatives must comply with the Delegate Standard.
- e. A member may make a complaint about an elected representative to the National Secretary if the member believes that the elected representative has not complied with the Delegate Standard.
- f. The National Secretary may dismiss a complaint without investigation if:

- i. The complaint, if proven, would not constitute a breach of the Delegate Standard, or
 - ii. The complaint is vexatious, frivolous, unreasonable or malicious.
- g. Any decision to dismiss a complaint will be in writing setting out the reasons for the decision.
- h. The National Secretary may initially attempt to resolve the complaint informally through discussion, mediation or other processes.
- i. If the above processes are not appropriate or fail to resolve the complaint, an investigation may be done by the National Secretary. An independent investigator may be appointed where appropriate.
- j. Following the investigation, a report will be provided to the Standards Committee which may include recommendations.
- k. The Standards Committee will:
- i. Review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Delegate Standard, and
 - ii. If the conduct does constitute a breach, determine an appropriate sanction.
- l. Sanctions for breach of the Delegate Standard may include:
- i. A formal warning,
 - ii. Deprivation of the rights attaching to membership for a specified period up to 6 months, or
 - iii. Removal from office - only if any of the grounds set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- m. The person who is the subject of the complaint must be afforded procedural fairness throughout this process.
- n. The National Secretary will, as far as practicable, give effect to the sanction determined by the Standards Committee.
- o. The National Secretary may remove a deputy delegate or delegate from their elected position in accordance with this process.
- p. The removal of a Section Councillor, Section Officer, Governing Councillor or National Officer may only proceed with a two-thirds majority support vote of Governing Council in accordance with rule 5.15.
- q. The National Secretary may delegate their powers and responsibilities under this rule, other than the power in paragraph (n), to another National Officer or staff member of the PSU Group.
- r. If a complaint relates to the National Secretary, references to the National Secretary in this rule should be read as references to the National President. “

Please complete the attached proforma and return by email to James.Batchelor@cpsu.org.au, PSU Group National Secretariat

Yours in Unity



Melissa Donnelly
For the Joint National Secretaries

NOC Ballot Paper

To: Melissa Donnelly, Joint National Secretary
Attn: James Batchelor

Re: NOC Ballot no. 1 of 2021 – Rule 17(f) – Delegate
Standard

I hereby vote YES / NO for **1.2021**

*Please circle your vote

Name: _____

Signature: _____

Position: _____

Date: / / 202_

PLEASE RETURN YOUR VOTE BY ASAP TO:

██████████
██████████
████████████████████



**DECLARATION
NATIONAL OFFICERS COMMITTEE (NOC)
OUT OF SESSION VOTING RULE 17(f)**

Proposal No: 1 of 2021

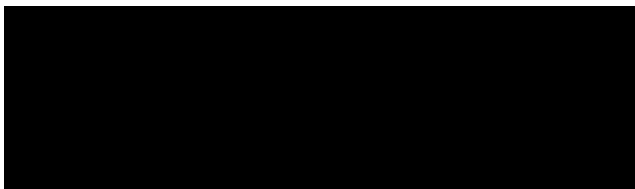
Subject: Delegates Standards – Chapter B Rule

Vote Issued: 17/12/2021

Declaration

On 17 December 2021 the Joint National Secretaires issued NOC vote 1 of 2021 by Memo.

I declare that the resolution at Attachment 1 has been adopted based on the votes set out at Attachment 2.



Alistair Waters
Joint National President
27/01/2022

Attachment 1

Resolution:

That the National Officers Committee, on the recommendation of the PSU Group Governing Council, votes to approve the following amendments to the Chapter B Rules in accordance with the NOC powers provided for in Chapter A rule 15(d)(ii):

Chapter B – PSU Group

1. Before rule 1.1 after the words ‘In this Chapter’ insert:

“**elected representative**” includes delegates, deputy delegates, and persons elected or appointed to an office.

“**person elected or appointed to an office**” means any person elected or appointed under Part 3 of these Rules.

2. Amend rule 1.3(b)(x) as follows:

1.3 - GOVERNING COUNCIL – POWERS

x. in respect of any particular matter, and without limiting any specific delegation contained in these Rules, delegate a power or task to a specified Officer of the PSU Group or a specified Committee or Council other than a power contained in the following Rules, except that where a specific power or task must be exercised by an Officer, as defined in the RAO Schedule of the Workplace Relations Act 1996, that power or task shall only be delegated to an Officer, so defined, or a Committee or Council constituted only of Officers, so defined:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,
- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
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- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) **establishing a Delegate Standard.**

3. Amend rule 1.10(b) as follows

1.10 - EXECUTIVE COMMITTEE – POWERS

b. The Executive Committee shall not exercise any of the powers of the Governing Council in relation to Rules specified herein:

Rules Excluded:

- 1.3(b)(viii) recommending and/or approving the making, amendment or rescission of Rules in Chapters A or B,

- 1.3(b)(ix) setting the salaries, conditions and work location of Salaried Officers
- 1.4(c) waive the requirement to hold an in-face meeting of the Governing Council
- 1.13(c)(i) holding a meeting of the Governing Council to consider a plebiscite request
- 3.16 fixing the minimum salaries and work location of Salaried Officers prior to nominations
- 4.10 subscriptions
- 4.11 levies on members
- 5.7 affiliation
- 5.15 removal from office by the Governing Council
- 5.19(k) determination of disputes
- 5.25(a) establishing a Delegate Standard

4. Amend rule 2.3(e) as follows:

2.3 - WORKPLACE DELEGATES

e. A Delegate, acting in accordance with the Delegate Standard, may carry out any lawful task authorised by the Union or these Rules, which includes but is not limited to the following authorised tasks:

- i. distributing authorised Union publications and bulletins to workers;
- ii. calling and conducting meetings of members and workers;
- iii. recruiting workers to join the Union;
- iv. canvassing the workers to identify matters of concern;
- v. acting as a representative or witness for a member in a workplace matter;
- vi. meeting with relevant management representatives;
- vii. putting authorised Union publications on Union notice boards; and
- viii. organising workers to participate in lawful action authorised by the Union.

5. Amend rule 2.4(g) as follows:

2.4 - WORKPLACE REPRESENTATIVES

g. A Workplace Representative shall be removed from the list of authorised Workplace Representatives by the Governing Council if they cease to be a member of the Union, where the Workplace Representative has failed to comply with Union policy or acted contrary to the Delegate Standard or a decision or direction of a relevant body or official, by a majority vote of a meeting of members in the workplace, or where they are not re-credentialed in accordance with paragraph (e).

6. Amend rule 5.15(a) as follows

5.15 - REMOVAL FROM OFFICE BY GOVERNING COUNCIL

a. The Governing Council, if two-thirds of its members present and entitled to vote so decide, may at any time remove from office any ~~officer elected or appointed~~ person elected or appointed to an office under these Rules who has:

- i. Misappropriated the funds of the PSU Group.
- ii. Committed a substantial breach of the Rules.
- iii. Been found guilty of gross misbehaviour or gross neglect of duty.

7. Amend rule 5.16(a) as follows

5.16 - "NO CONFIDENCE" MOTIONS

- a. A motion of “no confidence” in an ~~Officer~~ person elected or appointed to an office may be moved at a meeting of Governing Council or Section Council provided that:
- i. notice of such motion was given at a previous meeting.
 - ii. notice of intention, including the substantial details of the allegation, are given in writing to the officer at least 21 days prior to the meeting.
 - iii. the ~~an Officer~~ person elected or appointed to an office is given adequate time and opportunity to reply to the allegation at the meeting.

8. Amend rule 5.18 as follows:

5.18 - DISPUTES AND CHARGES

- a. The following are offences with which a member may be charged under this Rule.
- i. misappropriation of the funds of the Union.
 - ii. a substantial breach of the Rules of the Union.
 - iii. gross misbehaviour or gross neglect of duty.
 - iv. an infringement of the Union's Rules, resolutions, or directions lawfully given.
- b. A member may lay a charge, ~~within 28 days of the occurrence of the alleged offence,~~ against any other member alleging that member has been guilty of one or more of the offences mentioned in paragraph (a).
- c. Any such charge shall be in writing, ~~accompanied by a deposit of \$100,~~ signed by the member laying the charge and shall be delivered to the National Secretary. ~~The deposit shall be retained by the National Secretary until the charge is finally dealt with.~~
- d. Within 7 days of receiving such charge, the National Secretary shall forward the original charge to the Chair of the Disputes Tribunal and forward a copy to the member charged.
- e. The Executive Committee may instruct the National Secretary or another National Officer to lay a charge on its behalf against a member. ~~The provisions of paragraph (c) as to a deposit shall not apply to such a charge.~~
- f. A charge must, in order to be valid, state clearly the nature of the offence alleged, the date or dates of the occurrence of the offence alleged and must also contain particulars of the alleged facts on which the charge is based.
- g. As soon as a charge is laid under this Rule, no discussion of the matter shall take place at any meeting held under these Rules until such time as the charge is finally dealt with.
- h. ~~Notwithstanding paragraph (b), a charge against an officer alleging an offence of the kind set out in subparagraphs (i) to (iii) of paragraph (a) may be laid by a member at any time.~~ If an alleged offence would constitute non-compliance with the Delegate Standard, the National Secretary may deal with the charge under rule 5.25 instead of the process under this rule.
- i. Should a charge be laid against the National Secretary, references in paragraphs (c), (d) and (e) shall be read as references to the National President.

9. Amend rule 5.19 as follows:

5.19 - DISPUTES TRIBUNALS

- a. Disputes Tribunals of 3 members shall be appointed from time to time by the Executive Committee for the purposes of hearing charges under Rule 5.18. Where a member of a Disputes Tribunal is a person who is subject to a charge under Rule 5.18 then that person shall not be a member of the Tribunal that determines the charge.
- b. The Disputes Tribunal shall be reimbursed by the Executive Committee for all necessary out of pocket expenses.
- c. The Disputes Tribunal may, subject to these Rules, establish its own procedures. Hearings of the Disputes Tribunal may be held by telephone or video conference.
- d. Any member charged shall be entitled to be represented at any hearing of the Disputes Tribunal.

- e. A Disputes Tribunal, may after consideration of the charge made, conclude that there is no case to answer and accordingly dismiss the charge without holding any hearing.
- f. In the event of the Tribunal finding that there is a prima facie case to answer, it shall proceed to hear the charge and afterwards notify its recommendation in writing as soon as practicable to the member charged, the member laying the charge and the National Secretary or National President.
- g. Any member charged shall attend at a time and place fixed by members of the Disputes Tribunal.
- h. No member shall be required to attend before a Disputes Tribunal without receiving reasonable travel expenses and compensation for loss of pay.
- i. If the Disputes Tribunal considers that a member is guilty of the charge alleged under Rule 5.18, **it may issue the member with a formal warning** or it may recommend to the Governing Council one or more of the following:
 - ~~i. — imposition of a fine not exceeding \$250; or~~
 - ii. deprivation of any right of membership for any specified period not exceeding six months; or
 - iii. removal of the member from any office or position if any of the offences set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- j. The member charged may, within 21 days of the forwarding of the Disputes Tribunal recommendation, provide a written response to the National Secretary.
- k. Not earlier than the expiration of the 21 day period as provided in paragraph (j), the National Secretary shall submit the recommendation of the Disputes Tribunal, and any response from the member charged, to the Governing Council for determination under Rule 1.4, 1.5 or 1.6.
- ~~l. After the Governing Council has dealt with the recommendation, the Disputes Tribunal shall direct the National Secretary to either refund the deposit to the member laying the charge or pay the deposit into the PSU Group's funds.~~

10. Insert new rule 5.25 as follows:

5.25 – DELEGATE STANDARD

- a. Governing Council may establish a Delegate Standard to impose standards of conduct on elected representatives.
- b. Governing Council may establish procedures for managing complaints and dealing with breaches of the Delegate Standard that are consistent with this rule.
- c. Governing Council may establish a Standards Committee made up of at least 3 Governing Council members.
- d. Elected representatives must comply with the Delegate Standard.
- e. A member may make a complaint about an elected representative to the National Secretary if the member believes that the elected representative has not complied with the Delegate Standard.
- f. The National Secretary may dismiss a complaint without investigation if:
 - i. The complaint, if proven, would not constitute a breach of the Delegate Standard, or
 - ii. The complaint is vexatious, frivolous, unreasonable or malicious.
- g. Any decision to dismiss a complaint will be in writing setting out the reasons for the decision.
- h. The National Secretary may initially attempt to resolve the complaint informally through discussion, mediation or other processes.
- i. If the above processes are not appropriate or fail to resolve the complaint, an investigation may be done by the National Secretary. An independent investigator may be appointed where appropriate.
- j. Following the investigation, a report will be provided to the Standards Committee which may include recommendations.
- k. The Standards Committee will:
 - i. Review the investigation report and satisfy itself about whether the conduct constitutes a breach of the Delegate Standard, and
 - ii. If the conduct does constitute a breach, determine an appropriate sanction.
- l. Sanctions for breach of the Delegate Standard may include:
 - i. A formal warning,

- ii. Deprivation of the rights attaching to membership for a specified period up to 6 months, or
 - iii. Removal from office - only if any of the grounds set out in sub-Rules 5.15(a)(i)-(iii) are proven.
- m. The person who is the subject of the complaint must be afforded procedural fairness throughout this process.
- n. The National Secretary will, as far as practicable, give effect to the sanction determined by the Standards Committee.
- o. The National Secretary may remove a deputy delegate or delegate from their elected position in accordance with this process.
- p. The removal of a Section Councillor, Section Officer, Governing Councillor or National Officer may only proceed with a two-thirds majority support vote of Governing Council in accordance with rule 5.15.
- q. The National Secretary may delegate their powers and responsibilities under this rule, other than the power in paragraph (n), to another National Officer or staff member of the PSU Group.
- r. If a complaint relates to the National Secretary, references to the National Secretary in this rule should be read as references to the National President. “

ATTACHMENT 2:

THE BALLOT IS DECLARED BASED ON THE FOLLOWING VOTES:

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]			[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]		

[REDACTED]

Declared: 27/01/2022



17 March 2022

Melissa Donnelly
National Secretary
CPSU, PSU Group

cc: Aidan Nash, Senior Industrial Officer, CPSU PSU Group

Dear Mr Crumlin

Notification of alterations to the rules of the CPSU PSU Group (R2022/15)

I acknowledge receipt on 9 February 2022 of your notification and declaration under section 159 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) of alterations to the rules of CPSU PSU Group.

I have had an opportunity to consider the materials lodged, and have had a brief discussion with Aidan Nash (cc'd into this letter) regarding new subrule 5.25(l)(ii). My initial thoughts are that this subrule may be contrary to the RO Act. This letter sets out my current thinking about this subrule and invites feedback from the CPSU PSU Group.

I emphasise that the comments below represent my initial thoughts, and do not purport to represent the views of the General Manager of the Fair Work Commission. Whether the alterations are certified is ultimately a matter for the General Manager.

Relevant Provisions of the RO Act

A fundamental premise of the the RO Act is recognition of the right of employees to associate. Section 5 sets out Parliament's intention in enacting the RO Act and subsection 3 lists the standards, including to:

- (b) encourage members to participate in the affairs of organisations to which they belong;*
and
- (c) encourage the efficient management of organisations and high standards of accountability of organisations to their members; and*
- (d) provide for the democratic functioning and control of organisations;*

Section 166 of the RO Act (see extract below) entitles employees to become a member of a union, as long as they are:

- eligible to join,
- not of general bad character, and
- have paid the relevant membership fees.

11 Exhibition Street
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Melbourne VIC 3001

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Section 166 of the RO Act also entitles a member to remain a member of the union, as long as they comply with the rules of the union. In other words, a union member may be removed from membership if:

- they are no longer eligible to be a member and the rules provide that they are not entitled to remain a member, or
- they are of general bad character, or
- they have not paid their membership fees, or
- they have not complied with the rules of the union.

(As an aside, removal from membership is subject to procedural fairness.)

If an employee remains a member of the union, they are entitled to participate in the affairs of the union and receive the benefits of membership. The RO Act explicitly confers a number of entitlements on members, such as the right to receive a copy of the reporting unit's financial report (s.265). It also confers rights on *financial* members, such as the right to vote in ballots (s.345). I have copied below extracts from the RO Act which set out some of the statutory entitlements and rights of members.

Alterations to the rules of the CPSP PSU Group (R2022/15)

Proposed subrule 5.25(l)(ii) enables the Standards Committee to deprive an elected representative of rights attaching to membership for up to 6 months if the Committee has found that the representative has not complied with the Delegate Standard.

On its face, the subrule appears to deprive a member of their statutory rights, and therefore may be contrary to the RO Act. I invite feedback from the CPSU PSU on this point.

If the subrule is contrary to the RO Act

If it is concluded that the subrule is likely to be contrary to the RO Act, I am open to discussing next steps with Mr Nash. I have flagged with Mr Nash that the CPSU PSU Group may wish to consider making a further alteration. I have not yet considered whether the subrule is capable of being severed from the other alterations and have undertaken to further engage with Mr Nash on this point.

Existing rules of the CPSU PSU Group

I note that existing subrule 5.19(i)(ii) currently enables the Disputes Tribunal to deprive a member of membership rights for up to 6 months for certain offences. I cannot comment on the history of this subrule (why or when it was certified) but my first thoughts are that this rule also might be contrary to the RO Act. The CPSU PSU Group may wish to consider future alterations to this rule.

As stated above, I invite feedback regarding subrule 5.25(l)(ii). I will liaise with Mr Nash regarding a timeline for feedback.

If you have queries regarding this correspondence I can be contacted on 03 8656 4574.

Yours sincerely

Eve Anderson
Senior Adviser
Registered Organisations Section
Fair Work Commission

Extracts from the RO Act:

Section 166 Entitlement to become and to remain a member

Employee organisations

- (1) Subject to any modern award or order of the FWC, a person who is eligible to become a member of an organisation of employees under the eligibility rules of the organisation that relate to the occupations in which, or the industry or enterprise in relation to which, members are to be employed is, unless of general bad character, entitled, subject to payment of any amount properly payable in relation to membership:
 - (a) to be admitted as a member of the organisation; and
 - (b) to remain a member so long as the person complies with the rules of the organisation.

6 Definitions

...

direct voting system, in relation to an election for an office in an organisation, means a method of election at which:

- (a) all financial members; or
- (b) all financial members included in the branch, section, class or other division of the members of the organisation that is appropriate having regard to the nature of the office;

are, subject to reasonable provisions in relation to enrolment, eligible to vote.

65 Secret postal ballot of members

Ballot on proposed principal amalgamation

- (1) If the FWC approves, under section 55 or 57, the submission of a proposed amalgamation to ballot, the AEC must, in relation to each of the existing organisations concerned in the amalgamation, conduct a secret postal ballot of the members of the organisation on the question whether they approve the proposed principal amalgamation.

265 Copies of full report or concise report to be provided to members

(1) A reporting unit must provide free of charge to its members either:

- (a) a full report consisting of:
 - (i) a copy of the report of the auditor in relation to the inspection and audit of the financial records of the reporting unit in relation to a financial year; and
 - (ii) a copy of the general purpose financial report to which the report relates; and
 - (iii) a copy of the operating report to which the report relates; or
- (b) a concise report for the financial year that complies with subsection (3).

272 Information to be provided to members or Commissioner

- (1) A member of a reporting unit, or the Commissioner, may apply to the reporting unit for specified prescribed information in relation to the reporting unit to be made available to the person making the application.

345 Right to participate in ballots

- (1) Subject to reasonable provisions in the rules of an organisation in relation to enrolment, every financial member of the organisation has a right to vote at any ballot taken for the purpose of

submitting a matter to a vote of the members of the organisation, or of a branch, section or other division of the organisation in which the member is included.

346 Requests by members for information concerning elections and certain ballots

- (1) A financial member of an organisation may, by notice in writing, request the returning officer:
 - (a) in relation to an election for an office or other position in the organisation or a branch of the organisation; or
 - (b) in relation to a ballot taken for the purpose of submitting a matter to a vote of the members of an organisation or a branch of the organisation;to provide to the member specified information for the purpose of determining whether there has been an irregularity in relation to the election or ballot, and the returning officer must not unreasonably withhold the information.



21 March 2022

Melissa Donnelly
National Secretary
CPSU, PSU Group

cc: Aidan Nash, Senior Industrial Officer, CPSU PSU Group

Dear Ms Donnelly

Notification of alterations to the rules of the CPSU PSU Group (R2022/15)

Further to my letter of 17 March 2022, I note that I incorrectly addressed the letter to Mr Crumlin. This was a typing error on my behalf. The letter should have been addressed to you.

Please accept my apologies.

If you have queries regarding this correspondence I can be contacted on 03 8656 4574.

Yours sincerely

Eve Anderson
Senior Adviser
Registered Organisations Section
Fair Work Commission

[Redacted]

From: Aidan Nash [Redacted]
Sent: Thursday, 31 March 2022 3:02 PM
To: Eve Anderson
Cc: Melissa Donnelly; Rebecca Fawcett
Subject: RE: Alterations to the rules of the CPSU PSU Group R2022/15

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Eve,

Thank you for advising us about this issue, and for your advice that this rule 5.25(l)(ii) would likely be severable if found to be contrary to the FW(RO) Act (noting that this is ultimately for the General Manager to decide).

On this basis we do not propose to make a further alteration at this stage. Nor do we seek to challenge your initial views in relation to the matter. It is our view that the proposed delegate standard procedure would continue to work effectively even if proposed rule 5.25(l)(ii) was severed, and the severance of this subrule would not affect the operation of the other amendments.

We are happy to let this approval process run its course. If the General Manager finds that rule 5.25(l)(ii) is contrary to the FW(RO) Act and severs the rule from the approval decision, we would then consult with our Governing Council and National Officers Committee about whether a further amendment to provide an alternative sanction is desired.

I am happy to discuss this further with you, but I will be finishing up with the CPSU at the end of this week to start a new job. After this week can you please direct any correspondence to our Director of Legal and Industrial, Rebecca Fawcett who is copied into this email.

Regards,



Aidan Nash | Senior Industrial Officer | Legal and Industrial Unit | CPSU | mobile 0420 968 937 website www.cpsu.org.au | member service centre 1300 137 636

CPSU acknowledges the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to culture, language, land, waters and community. We pay our respects to their Elders, past, present and emerging.

[Redacted]

[Redacted]

[Redacted]