



DECISION

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

CPSU, the Community and Public Sector Union (R2014/161)

MR ENRIGHT

MELBOURNE, 17 OCTOBER 2014

Alteration of other rules of organisation.

[1] On 20 June 2014 the CPSU, the Community and Public Sector Union, SPSF Group lodged with the Fair Work Commission a notice and declaration setting out particulars of alterations to the rules of the CPSU, the Community and Public Sector Union, SPSF Group.

[2] The particulars provide for the insertion of Rule 36 into the rules of the organisation. The alterations were made for the purpose of complying with provisions of the *Fair Work (Registered Organisations) Amendment Act 2012* (the Amendment Act) regarding the rules of registered organisations. In particular, the alterations provide for specified disclosures, the implementation of policies relating to expenditure and the mandatory training of officers with duties that relate to the financial management of the organisation.

[3] Further information was sought from the organisation regarding the rule altering procedure and concerning two possible errors in the particulars.

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

[5] On 30 September 2014, consent under subsection 159(2) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) was received from Karen Batt, Federal Secretary, for the Delegate to make various amendments to the alterations for the purpose of correcting typographical, clerical or formal errors. Accordingly the following corrections have been made:

- In proposed rule 36.4(b)(i) a reference to ‘Branch President of the Group’ has been changed to ‘Branch President of the Branch’;
- In proposed rule 36.5(d) a reference to Rule 36.4(b) has been changed to Rule 36.4(a).

[6] In my opinion, the alterations comply with and are not contrary to the RO Act, the Amendment 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 RO Act.



DELEGATE OF THE GENERAL MANAGER

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STATE PUBLIC SERVICES FEDERATION GROUP**

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Joint National Secretariat

Tuesday 30 September 2014

The Delegate to the General Manager
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

Attention: Ms Catherine Bebbington by e-mail to Catherine.BEBBINGTON@fwc.gov.au and orgs@fwc.gov.au

Dear Delegate,

CPSU SPSF RO Amendments (R2014/161)

I refer to the letter of Ms Bebbington dated 24 September 2014 addressed to me relating to this matter. In that letter Ms Bebbington raises two issues in relation to this application. I deal with each issue in turn.

My consent to delegate to amend the alteration for the purpose of correcting typographical or clerical error under Section 159(2) of the RO Act

The 24 September letter raised two typographical errors and suggested that I give my consent for the delegate to amend the application under s159(2) of the RO Act. I attach my authorised consent form dated Tuesday 30 September 2014 which follows the template which Ms Bebbington sent me.

Confirmation that the NOC meeting referred to in my declaration of 20 June 2014 in support of this application was quorate

In paragraph 2 of the 24 September 2014 letter Ms Bebbington seeks confirmation that the 19 June 2014 NOC meeting (referred to in paragraphs 17 to 20 of my declaration in support of this application) was quorate.

I can confirm that meeting was quorate and that those NOC members in attendance voted unanimously for the rule to be made. I participated in that telephone conference and have now read the signed minutes which confirm the following persons participated in the NOC telephone conference on 19 June 2014:

Nadine Flood: Joint National Secretary
Karen Batt: Joint National Secretary
Lisa Newman: NOC member
Mathew Johnston: Proxy for Tom Lynch
Alistair Waters: NOC member
Louise Persse: NOC member
Neville Kitchen – Proxy for Jan McMahon
Toni Walkington – NOC member
Peter Lillywhite: Proxy for Catherine Davies

Sue Walsh was an apology and Mark Perica and Lindsay Benfell were non-voting observers.

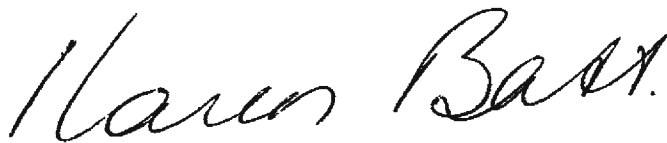
It follows I can confirm that the NOC meeting of 19 June 2014 was quorate.

Conclusion

Unless you have any further questions for Mark Perica or myself I would be grateful if the matter of this rule change application could be put to the delegate as soon as possible for his decision.

Thank you for your assistance in this matter. If you have any further questions please address them to Mark Perica, our Senior Legal Officer, at his e-mail which is mperica@spsf.asn.au or his mobile which is 0408 129 965

Yours Sincerely

A handwritten signature in black ink that reads "Karen Batt". The signature is written in a cursive, flowing style.

Karen Batt
Federal Secretary CPSU (SPSF)
Joint National Secretary CPSU

Attach.

Fair Work Commission

Fair Work (Registered Organisations) Act 2009

R2014/161

Application for a proposed amendment to the Chapter C Rules of the CPSU to insert a new Rule 36 under s159 and Regulation 126

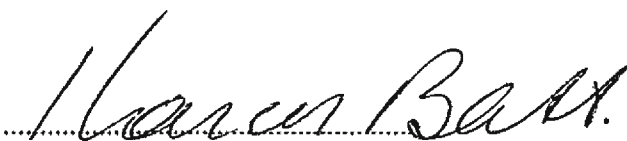
Consent of Karen Michele Batt, Federal Secretary of the CPSU – SPSF in accordance with Section 159(2) of the *Fair Work (Registered Organisations) Act 2009*

I, Karen Michele Batt, of Level 2 Rosella Complex, 6 Palmer Parade Cremorne in the State of Victoria, am the Federal Secretary of the State Public Services Federation of the CPSU, the Community and Public Sector Union (“CPSU”) and the Joint National Secretary of the CPSU

I am authorised to give consent under section 159(2) of the *Fair Work (Registered Organisations) Act 2009* to the General Manager (or her Delegate) to amend the alteration for the purpose of correcting a typographical, clerical or formal error.

Alterations to the Chapter C rules of the CPSU were notified to the Fair Work Commission on 20 June 2014 in this matter. I give consent for the General Manager to amend the alterations for the purpose of correcting the following typographical, clerical or formal error[s]:

1. **Rule 36.4(b) (i)** presently reads “in the case of a Branch Secretary to the Branch President of the Group” (emphasis added). It should read “Branch President of the Branch”
2. **Rule 36.5(d)** presently contains a reference to 36.4(b). It should contain a reference to 36.4(a)



SIGNED BY KAREN MICHELE BATT, FEDERAL SECRETARY OF THE CPSU-SPSF ON TUESDAY 30 SEPTEMBER 2014



24 September 2014

Karen Batt
National Secretary/Secretary
CPSU
SPSF Group

C/- Mark Perica, by email mark@spsf.asn.au

Dear Ms Batt,

RE: CPSU SPSF Group RO Amendments (R2014/161)

The Fair Work Commission received the notification of an alteration to the rules of the CPSU - SPSF Group (Chapter C) concerning the *Fair Work (Registered Organisations) Amendment Act 2012* on 20 June 2014.

Thank you for your patience.

I have examined the declaration; it is thorough and of a high standard. The organisation has managed to include all of the relevant pieces of information, bar one, that is required to present the alterations to the Delegate. I would request confirmation that the NOC meeting which occurred on 19 June 2014, and which is contained between paragraphs 17 and 21 of the declaration, was quorate.

I have examined the particulars. The particulars appear capable of certification however they seem to contain two errors:

- Rule 36.4(b)(i) *In the case of a Branch Secretary to the Branch President of the Group*, the rule should read 'Branch President of the Branch';
- Rule 36.5(d) contains a reference to 36.4(b) which should read 36.4(a).

If the Group wishes these errors to be corrected by the Delegate it will need to supply consent. I have included a template Consent to Correct Errors to assist.

If you have any questions, please contact me on catherine.bebbington@fwc.gov.au or 03 8661 7974, however, I am on leave between 26 September and 8 October.

Kind regards,

CATHERINE BEBBINGTON
Regulatory Compliance Branch

FAIR WORK COMMISSION

Tel: 03 8661 7974

Fax: 03 9655 0410

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GPO Box 1994, Melbourne Victoria 3001

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FAIR WORK COMMISSION

FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009

Application under s159 and regulation 126 to amend the rules of an organisation to comply with division 3A

NOTICE OF PARTICULARS UNDER REGULATION 126(1) (a) OF A PROPOSED AMENDMENT TO THE CHAPTER C RULES OF THE CPSU TO INSERT A NEW RULE 36

1. I, Karen Michele Batt, Joint National Secretary of the CPSU hereby give notice of particulars of proposed changes to the Chapter C rules of the CPSU. These proposed rules are designed to impose disclosure and training obligations on the officers of the CPSU(SPSF Group) and the Branches of that Group.

A. FORMAL WITHDRAWAL OF R2013/153

2. The General Manager will recall that under cover of an e-mail addressed to the Melbourne Registry and dated 28 June 2013 Mr. Lindsay Benfell filed a similar application to place a disclosure and training rule into Chapter C. That application became R2013/153.
3. Between 17 February and 28 March 2014 the CPSU has been in correspondence and had meetings with, officers of the Registry concerning that application (and other proposed changes to Chapter C). Those meetings concerned (amongst other things) suggestions to improve the text of the proposed financial disclosure and training rule which is the subject of R2013/153.
4. Following this exchange with Registry staff I formally withdraw that application and make this new application in its place.
5. The particulars of the alteration to include a new rule 36 in Chapter C are set out in Part B of this notice of particulars below.

B. PROPOSED CHANGES TO THE CHAPTER C RULES OF THE CPSU

It is proposed that the current rule 36 Chapter C which presently reads "36 DELETED" be deleted and replaced with the following:

36. FINANCIAL DISCLOSURE AND TRAINING OBLIGATIONS FOR THE GROUP AND ITS BRANCHES

36.1 Preamble

- (a) This rule is included to comply with the financial disclosure, policy development and training requirements of Division 3A of the *Fair Work (Registered Organisations) Act 2009*
- (b) For the absence of doubt this rule provides for disclosure by the Group to its members and by each Branch to its members, for the financial training of the Group officers and Branch officers, and for policy development by the Group and each of its Branches.

36.2 Interpretation of this Rule

For the purposes of this rule:

- (a) A **board** means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.
- (b) **CPSU** means CPSU, The Community and Public Sector Union.
- (c) **disclosure period** means the financial year unless a shorter period is specified.
- (d) **declared person or body** means:
 - (i) an officer of the Group or Branch has disclosed a material personal interest under **Rules 36.5(c) and 36.6(c)**;
 - (ii) the interest relates to, or is in, the person or body; and
 - (iii) the officer has not notified the Group or Branch that the officer no longer has the interest.
- (e) **financial duties** means duties that relate to the financial management of the Group or a Branch of the Group.
- (f) **General Manager** means the General Manager of the Fair Work Commission.
- (g) **Group** means CPSU, The Community and Public Sector Union SPSF Group.
- (h) **non-cash benefit** means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (i) **peak council** has the same meaning as defined by section 12 of the *Fair Work Act 2009*.
- (j) **office** has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*.

- (k) **officer** has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*.
- (l) **related party** has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.
- (m) **relative** means, in relation to a person:
 - (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or
 - (ii) the spouse of the first mentioned person.
- (n) **relevant remuneration** in relation to an officer of the Group or Branch for a disclosure period is the sum of the following:
 - (i) any remuneration disclosed to the Group or Branch by the officer under **Rules 36.5(a) and 36.6(a)** during the disclosure period;
 - (ii) any remuneration paid during the disclosure period, to the officer by the CPSU, the Group or a Branch
- (o) **relevant non-cash benefits** means, in relation to an officer of the Group or Branch for a disclosure period the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer's duties as an officer, by the Group or Branch or by a related party of the Group or Branch.
- (p) **remuneration**:
 - (i) includes pay, wages, salary, fees, allowances, leave benefits or other entitlements; but
 - (ii) does not include a non-cash benefit; and
 - (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

36.3 Group and Branch Officer Training Obligations

- (a) Each officer of the Group and each officer of any Branch whose duties include financial duties that relate to the financial management of the Group or the Branch must undertake training that covers each of the officer's financial duties.
- (b) The financial training must be approved by the General Manager under section 154C of the *Fair Work (Registered Organisations) Act 2009* and must be completed within 6 months from the date at which the officer of the Group or the Branch began to hold that office.

36.4 Method of Disclosure for the Purposes of this Rule

- (a) **Annual disclosures for higher paid officers and related party payments**
The disclosures by the Group required by **Rule 36.5(b), 36.5(d) and 36.5(e)** and by Branches by **Rules 36.6(b), 36.6(d) and 36.6(e)** will be:
 - (i) made in respect of each financial year;

- (ii) published within six months after the end of the financial year using one or more of the following methods;
 - Publication in the print journal (if any) of the Group, the Branch or the Associated Body;
 - Publication in the Branch or Group annual report;
 - Publication on the Group, Branch or Associated Body website;
 - Publication in the general purpose financial report provided under s253 of the *Fair Work (Registered Organisations) Act 2009*;
 - Publication in the operating report provided under s254 of the *Fair Work (Registered Organisations) Act 2009*;
 - Such other means prescribed in the rules of a Branch provided the method of disclosure is available to all members of the Branch;
- (b) **More frequent disclosures of Board remuneration, non cash benefits, and material personal benefits and payments from related parties.**
- (i) The disclosures of Group officers required by **Rules 36.5(a) and 36.5(c)** and of the Branch officers by **Rules 36.6(a) and 36.6(c)** of this Rule will be made:
 - In the case of the Federal President to the Federal Executive of the Group;
 - In the case of a Federal Secretary to the Federal President of the Group;
 - In the case of a Group officer to the Federal President of the Group;
 - In the case of the Branch President to Branch Executive of the Branch
 - In the case of a Branch Secretary to the Branch President of the Group;
 - In the case of a Branch officer to the Branch President of the Branch;
 - (ii) The method of disclosure will be in writing as soon as practicable after the remuneration is paid or the material personal interest acquired. Also the disclosure must be made before the end of the financial quarter in which the remuneration is paid or the material personal interest acquired,. For the purposes of **Rule 36.4(b)** disclosures the end of each financial quarter shall be 30 September, 31 December, 31 March and 30 June.

36.5 Group and Group Officer Disclosure

(a) Relevant remuneration and non-cash benefits

Each officer of the Group shall disclose to the Group in the manner prescribed in **Rule 36.4(b)** any remuneration paid to the officer:

- (i) because the officer is a member of a board, if:

- the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;
- (ii) by any related party of the Group in connection with the performance of the officers' duties as an officer.
- (b) Five highest paid Group officers**
- The Group shall disclose to members of the Group, in the manner prescribed in **Rule 36.4(a)**, the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:
- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
 - (ii) either the value of each of the officer's relevant non-cash benefits, or the form of each of the officer's relevant non-cash benefits, for the disclosure period.
- (c) Material personal interests**
- Each officer of the Group shall disclose to the Group any material personal interest in a matter that relates to the affairs of the Group that:
- (i) the officer has or acquires; or
 - (ii) a relative of the officer has or acquires.
- (d)** The Group shall disclose to members of the Group any interests disclosed to the Group pursuant to **Rule 36.5(c)** in a manner prescribed by **Rule 36.4(b)**
- (e) Payments to related parties and declared persons**
- The Group shall disclose to members of the Group the following by a manner prescribed by **Rule 36.4(a)**:
- (i) each payment made by the Group, during the disclosure period:
 - to a related party of the Group; or
 - to a declared person or body of the Group; or
 - (ii) the total of the payments made by the Group, during the disclosure period:
 - to each related party of the Group; or
 - to each declared person or body of the Group
- (f) Rule 36.5(e) does not apply to:**
- (i) a payment made to a related party if the payment consists of amounts deducted by the organisation from remuneration payable to officers or employees of the organisation.
 - (ii) payments to officers, who are related parties, that are remuneration;
 - (iii) payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking duties of an officer

36.6 Branch and Branch Officer Disclosure

(a) Remuneration paid to the officer

Each officer of a Branch shall disclose to the Branch any remuneration paid to the officer:

- (i) because the officer is a member of a board, if
 - the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;
- (ii) by any related party of the Branch in connection with the performance of the officer's duties as an officer.

(b) Five highest paid Branch officer disclosure

The Branch shall disclose to members of the Branch in a manner prescribed in **Rule 36.4(a)** the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) Material personal interests

Each officer of a Branch shall disclose to the Branch any material personal interest in a matter that relates to the affairs of a Branch that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

- (d) The Branch shall disclose to members of the Branch any interests disclosed to the Branch pursuant to **Rule 36.6(c)** in a manner prescribed by **Rule 36.4(a)**

(e) Payments to related parties and declared persons

Each Branch shall disclose to members of the Branch in the manner prescribed by **Rule 36.4(a)** either:

- (i) each payment made by the Branch, during the disclosure period:
 - to a related party of the Branch; or
 - to a declared person or body of the Branch; or
- (ii) the total of the payments made by the Branch, during the disclosure period:
 - to each related party of the Branch; or
 - to each declared person or body of the Branch.

- (f) **Rule 36.6(e)** does not apply to:

- (i) A payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch.
- (ii) Payments to officers, who are related parties, that are remuneration
- (iii) Payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking the duties of an officer

36.7 Group and Branch Expenditure Policies and Procedures

The Group and each Branch shall develop and implement policies and procedures relating to the expenditure of the Group and each Branch respectively.

C. OTHER DOCUMENTS FILED WITH THIS NOTICE OF PARTICULARS AND PUBLICATION THAT THIS NOTICE HAS BEEN LODGED

- 6. I will file the following documents together with this notice of particulars:
 - 6.1. A document marked "Schedule X" which is a marked up version of Chapter C with the new proposed rule 36 (the new parts are highlighted in yellow); and
 - 6.2. A declaration entitled "20 June 2014 Declaration of Karen Michele Batt in support of the application to amend Chapter C by the insertion of a new Rule 36" which sets out:
 - 6.2.1. the alteration was made in accordance with the rules of the CPSU
 - 6.2.2. the action taken under those rules to make this application
- 7. I have given instructions to my staff to post a copy of all the material in support of this application on the website of the CPSU (SPSF) on or before Friday 27 June 2014.
- 8. I declare that the particulars set out in this notice, and in my 20 June 2014 declaration are true and correct to the best of my knowledge and belief.

DECLARED BY KAREN MICHELE BATT, JOINT NATIONAL SECRETARY OF THE CPSU FRIDAY 20 JUNE 2014 AT CREMORNE IN THE STATE OF VICTORIA

KAREN MICHELE BATT

BEFORE ME:

<p>MARK D. PERICA An Australian Legal Practitioner [within the meaning of the Legal Profession Act 2004] CPSU, the Community and Public Sector Union Victorian Trades Hall 54 Victoria Street Carlton South 3053</p>

Fair Work Commission

Fair Work (Registered Organisations) Act 2009

**An Application for A Proposed Amendment to the Chapter C Rules Of the CPSU to
Insert a New Rule 36 under S159 and Regulation 126**

**20 JUNE 2014 DECLARATION OF KAREN BATT IN SUPPORT OF THE
APPLICATION TO AMEND CHAPTER C BY THE INSERTION OF A NEW RULE
36.**

I, Karen Michele Batt, of Level 2 Rosella Complex 6 Palmer Parade Cremorne in the State of Victoria solemnly and sincerely declare and affirm:

A. INTRODUCTION

1. I am the Federal Secretary of the State Public Services Federation Group of the CPSU, and the Joint National Secretary of the CPSU. I make this declaration from my own knowledge and belief unless I otherwise indicate.
2. I am authorised to make this declaration and to give the notice of particulars required by Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009*
3. What follows is an account of the actions taken under the Rules of the CPSU to make the alterations to Chapter C Rules detailed in the attached notice of particulars. On the basis of this declaration the General Manager should be satisfied the alteration to Rule 36 of Chapter C has been made in accordance with the CPSU rules.

B. FEDERAL EXECUTIVE DECISION

4. On and from 17 February until 28 April 2014 officers of the CPSU(SPSF) have been in correspondence, and had meetings, with Melbourne Registry staff concerning proposed alterations to the Chapter C rules including suggestions to improve the form of the proposed financial training and disclosure rule which has been the subject of R2013/153 (which the CPSU withdraws in the attached notice of particulars)
5. Following the last meeting with Registry staff on 28 April 2014 I convened an urgent meeting of the Federal Executive.

6. On Wednesday 30 April 2014, in accordance with the requirements of Rule 22 sub rules D and E of the Chapter C rules, I caused an e-mail to be sent which contained a notice of a telephone conference to be held on Friday 2 May 2014 together with a detailed memorandum entitled "*Request for a resolution to approve of a financial disclosure and governance rule and to recommend it to Federal Council for a urgent postal ballot under Rule 42F*". The terms of the new proposed Rule 36 were contained on pages 3 to 8 of that memo under a heading "Proposed Changes to the Chapter C Rules of the CPSU". Attached to this declaration and marked "**KMB 1**" is a true copy of the e-mail notification and the memorandum.

7. At 4PM on Friday 2 May 2014. A meeting of the Federal Executive of the SPSF Group of the CPSU was convened by me and held by teleconference in accordance with the requirements of Rules 32 and 33 of Chapter C. The only item on the agenda was the proposed alteration of the Chapter C rules by the addition of a new rule 36. A resolution was moved and carried unanimously by the Federal Executive of the SPSF at that teleconference as follows:

The Federal Executive having read the memorandum of Wednesday 30 April resolves to:

- 1.1 *Approve the proposed rule change to Rule 36 dealing with financial disclosure and contained in that memorandum*
- 1.2 *Submit the proposed rule change to Federal Council for approval by Postal Ballot under Business of Federal Executive Rule 33F and to enable a postal ballot of Federal Council under Rule 42.*
- 1.3 *Instruct the Federal Secretary to take all necessary steps to:*
 - 1.3.1 *Submit the proposed rule change to the Federal Council by postal ballot as a matter of urgency; and*
 - 1.3.2 *Should the Federal Council approve the proposed rule change take all necessary steps to submit the proposed rule change to the Fair Work Commission for its consideration*

8. A true copy of the minutes of that 2 May meeting are attached to this declaration and marked "**KMB 2**"

9. It follows that the proposed rule 36 is approved by the Federal Executive of the CPSU SPSF Group.

C. FEDERAL COUNCIL DECISION

10. On the morning of Monday 5 May 2014, in accordance with the terms of the Federal Executive resolution, and with the provisions of Chapter C rule 42, I caused an e-mail to be sent to each of the Federal Counsellors of the CPSU SPSF Group. That e-mail attached a memorandum from myself entitled "*Federal Council Ballot No 2 of 2014* –

ballot to approve rule change to incorporate new financial governance and disclosure rules prior to the replacement of the existing Chapter C.” The text of the proposed new Rule 36 was contained at pages 4 to 9 of that memorandum (“the Federal Council memo”). That e-mail also attached a ballot paper whereby the Federal Counsellors could vote yes or no to the following proposition:

- o *Recommend, agree and endorse the proposed alteration to Chapter C Rule 36 and;*
- o *Empower to Federal Secretary and the Federal Office staff to take all necessary steps to have this proposed rule approved by the Fair Work Commission as a matter of urgency”*

11. Attached to this declaration and marked “**KMB 3**” is a true copy of the e-mail, the memorandum and the ballot paper I sent on Monday 5 May 2014. The voting period for the ballot was until 5 June 2014.

12. As this ballot was conducted as a result of a decision of the Federal Executive the ballot was required to be carried by a majority of the total number of Federal Councillors under Rule 42E of the Chapter C.

13. Rule 42E also provides, in specified circumstances, a ballot may become effective before the voting period of the ballot has been reached. Rule 42E relevantly provides:

“A decision by postal ballot shall become effective before the time appointed is reached if and when it has received in its favour an absolute majority of the total votes exercisable and if the other provisions [of Rule 42E] have been met”

14. An absolute majority of the total votes exercisable by Federal Councillors was reached before the 5 June close of the ballot. On 14 May 2014, acting in accordance with Rule 42E, I declared the ballot carried on the basis of the following votes

Total votes exercisable 94

Total votes exercised 62

Total votes in favour 62

Total votes against 0

15. I declared the postal ballot “carried and effective” on 14 May 2014 as an absolute majority had voted in favour of the proposed rule 36. I attach a copy of the declaration of the postal ballot under Rule 42 as **KMB 4** to this declaration.

16. It follows the proposed rule 36 has been approved by the Federal Council of the SPSF Group.

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D. NATIONAL OFFICERS COMMITTEE DECISION

17. On Tuesday 3 June 2014 Nadine Flood and I, as Joint National Secretaries of the CPSU, caused an e-mail to be sent to the National Officers Committee of the CPSU ("NOC") for a telephone conference to be held at 4.30PM on Thursday 19 June 2014.
18. The 3 June e-mail attached a series of documents including an agenda, the Federal Council memo which is attached as **KMB 3** to this declaration, and a memorandum entitled *Recommendation to the NOC for an approval of proposed change to the Chapter C rule book by the addition of a new rule 36 concerning financial disclosure and training* ("the NOC memorandum"). The text of the proposed rule 36 was contained in that memorandum at Part 3 on pages 3 to 8. I attach to this declaration as **KMB 5** the e-mail, the agenda the NOC memorandum sent on Tuesday 3 June 2014
19. On Thursday 19 June 2014 at 4.30PM a NOC was held by teleconference in accordance with Rule 17(e) of the Chapter A Rules. At that meeting the following resolution was unanimously passed by the members of the NOC in accordance with the provisions of Rule 16 of the Chapter A Rules of the CPSU:

The National Officers Committee having read the memorandum of Mark Perica dated 3 June 2014; the memorandum of Karen Batt to the Federal Council of the SPSF Group dated 5 May 2014; and on the recommendation of the SPSF Group: resolves to approve the proposed rule change to Rule 36 of Chapter C dealing with financial disclosure and training contained in the 3 June memorandum in accordance with the NOC powers provided for in Chapter A Rule 15 (d)(iii)

20. At the time of making this declaration no minutes of that NOC meeting had been produced, however, as a direct participant in that teleconference I can give a declaration of the unanimous passage of that resolution as a fact.
21. It follows the proposed rule 36 has been approved by the NOC.

E. DECLARATIONS ON RULE COMPLIANCE, TRUE PARTICULARS, AND WEBSITE PUBLICATION

22. The proposed Chapter C Rule 36 has been approved by properly convened and compliant votes of the Federal Executive and Federal Council of the CPSU SPSF and the NOC. It follows that all procedural steps in the rules of the CPSU have been followed for the making of the proposed Rule 36 of Chapter C.
23. I have directed my staff to place to material filed in support of this application on the website of the CPSU (SPSF) within five working days of filing it.

24. I therefore declare that matters referred to in the attached notice of particulars and in this declaration are true and correct to the best of my knowledge and belief

F. DECLARATIONS REQUIRED BY REGULATION 126

25. On the basis of the matters I state in this declaration I declare:

25.1. The alteration was made in accordance with the rules of the CPSU as required by Regulation 126(2)(a)

25.2. This declaration establishes the actions taken by the Federal Executive and the Federal Council of the SPSF Group and by the NOC as required by Regulation 126(2)(b)

25.3. The particulars set out in the notice of particulars and this my declaration are true and correct to the best of my knowledge and belief as required as required by Regulation 126(2)(c)

DECLARED BY KAREN MICHELE BATT, JOINT NATIONAL SECRETARY OF THE CPSU THIS FRIDAY 20 JUNE 2014 AT CREMORNE IN THE STATE OF VICTORIA



KAREN MICHELE BATT

BEFORE ME:



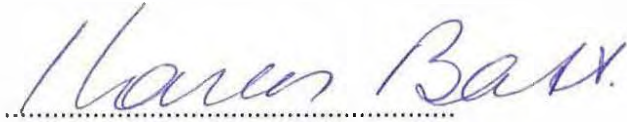
MARK D. PERICA
An Australian Legal Practitioner
[within the meaning of the Legal Profession Act 2004]
CPSU, the Community and Public Sector Union
Victorian Trades Hall
54 Victoria Street Carlton South 3053

Fair Work Commission

Fair Work (Registered Organisations) Act 2009

**An Application for A Proposed Amendment to the Chapter C Rules Of the CPSU to
Insert a New Rule 36 under S159 and Regulation 126**

**ATTACHMENT "KMB 1" TO THE 20 JUNE 2014 DECLARATION OF KAREN
BATT IN SUPPORT OF THE APPLICATION TO AMEND CHAPTER C BY THE
INSERTION OF A NEW RULE 36.**

A handwritten signature in blue ink that reads "Karen Batt". The signature is written in a cursive style and is positioned above a horizontal dotted line.

Karen Michele Batt

Mark Perica

From: Karen Batt [kbatt@cpsuvic.org]
Sent: Wednesday, 30 April 2014 2:30 PM
To: Neville Kitchin (SA); Lindsay Oxlad; Tom Lynch (TAS); Grant Ransley (TAS); Toni Walkington (WA); Lea McKay (WA); Sue Walsh; Steve Turner (NSW); Catherine Davies; Peter Lillywhite (VIC)
Cc: Mark Perica; Troy Wright; Wayne Townsend; Peter Christopher
Subject: FW: Details for Federal Executive teleconference at 4PM Melbourne time on Friday 2 May 2014
Attachments: 2014 Federal Executive for governance rules.docx; 2014 Federal Council ballot for governance rules.docx

Dear Executive

DIAL IN DETAILS FOR CONFERENCE

CONFERENCE WILL COMMENCE AT 4PM ON FRIDAY 2 MAY 2014

DIAL IN: 1800 896 323

PARTICIPANT CODE: 160 105

SHORT NOTE OF MATTERS FOR CONSIDERATION AND ATTACHED PAPERWORK

You will be familiar with our ongoing discussions with the Fair Work Commission on the terms of both the mandated financial disclosure and training rule and the replacement to Chapter C which we as an Executive and the Federal Council approved in principal in our March meetings in Adelaide.

On Monday 28 April 2013 myself and Mark Perica met with the Fair Work Commission. Following that meeting it was clear that the informal discussions concerning the terms of our Chapter C Rule replacement will take some time. It is therefore prudent that we separate out the financial disclosure and training rule from the remainder of Chapter C and deal with it through our internal processes leading ultimately to an application to the Fair Work Commission to amend the existing Chapter C while the remainder of our Chapter C replacement is under consideration

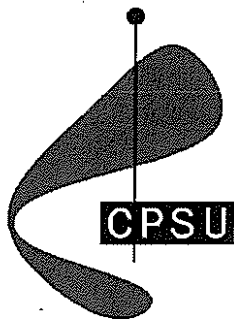
Please note that the proposed rule 36 in a very similar form to the proposed Rule 24 which was approved in principal by the Executive and Council (with small amendments to take in the legal and FWC advice). References to Rule 24 have been changed to Rule 36

I therefore attach for your review:

1. A memorandum ("**2014 Federal Executive for Governance**") to the Executive dated today which contains a draft resolution, more details of the facts around this proposed resolution, and the proposed Rule 36 entitled "financial disclosure and training obligations for the group and its branches". The resolution essentially approves of the rule change, recommends it to Federal Council, and authorises a postal ballot of Federal Council to consider it
2. I also attach a proposed memorandum and ballot 2014 ("**Federal Council Ballot for governance rules**") to the Council which, should the Executive make the proposed resolutions, will be sent the Federal Councillors on Monday 5 May 2014

Regards

Karen Batt



MEMORANDUM TO CPSU-SPSF GROUP FEDERAL EXECUTIVE

To: Members of the CPSU-SPSF Group Federal Council

From: Karen Batt, Federal Secretary

Date: Wednesday 30 April 2014

Subject: **Request for a resolution to approve of a financial disclosure and governance rule and to recommend it to Federal Council for a urgent postal ballot under Rule 42. F**

PART 1. DRAFT RESOLUTION

1. The Federal Executive having read the memorandum of Wednesday 30 April resolves to:
 - 1.1. Approve the proposed rule change to Rule 36 dealing with financial disclosure and contained in that memorandum.
 - 1.2. submit this proposed rule change to Federal Council for approval by Postal Ballot under Business of Federal Executive Rule 33.F and to enable a postal ballot of Federal Council under Rule 42.
 - 1.3. Instruct the Federal Secretary to take all necessary steps to:
 - 1.3.1. submit the proposed rule change to the Federal Council by postal ballot as a matter of urgency; and
 - 1.3.2. Should Federal Council approve the proposed rule change take all necessary steps to submit the proposed rule change to the Fair Work Commission for its consideration.

PART 2. BACKGROUND

Necessity for a rule change application for the financial training and disclosure rule following our most recent meeting with FWC.

2. Federal Executive will recall that the CPSU that in 2012 the **Fair Work (Registered Organisations) Act 2009** was amended to prescribe disclosure and training obligations on its federal officers.
3. On or before June 2013 the Federal Office made an application to the Fair Work Commission to satisfy these requirements.

4. On Monday 2 December 2013 (five months latter) the Federal Office sent an e-mail requesting a status report on the rule change application. A short e-mail was received on Tuesday 3 December indicating the relevant staff were working through the issues with respect to the rule change application.
5. On 17 February 2014 (some eight months since the application) Fair Work wrote to the Federal Secretary concerning this application and indicated some problems with its form. For example, the Fair Work Commission were concerned that the disclosure requirements within that draft may be considered oppressive of the Federal Officers.
6. On 26 February 2014 Mark Perica, Troy Wright and Lindsay Benfell met with Fair Work Commission on an informal basis to work through their suggestions in the letter of 14 February 2014 concerning the form of the application to include a financial training and disclosure rule. The redraft of the Chapter C rules was also discussed.
7. On Thursday 20 March 2014 the Federal Council considered a replacement for the current existing Chapter C Rule (including a new version of the financial training and disclosure rule) and resolved the following:
 - 7.1. To support, in principal, the draft of the Chapter C rule including the financial disclosure and training rule (at Rule 24 in that draft) that was then before it.
 - 7.2. Direct the Federal Secretary to informally approach the Fair Work Commission for consultations prior to the Replacement being formally put through the decision making bodies of the CPSU.
 - 7.3. Strongly urge the FWC to deal with the informal consultations urgently.
8. On 28 March 2014, in accordance with those resolutions, the Federal Secretary sent the draft replacement Chapter C rule (including the redraft of the financial training and disclosure rule) on an informal basis, to the Fair Work Commission for consultations concerning its form.
9. On 8 April 2014, Mark Perica, sent an e-mail to Fair Work Commission following up on the 28 March letter and requesting an urgent meeting.
10. On 28 April 2014, Mark Perica and Karen Batt met with Fair Work Commission concerning the draft replacement Chapter C rule. It became clear then that the informal consultations with the Fair Work Commission on the form of the Chapter C rule will take some time.

11. In those circumstances it is prudent that a further application be made to amend the financial training and disclosure rule in the existing rule prior to the current Chapter C rule being replaced.
12. The form of the financial disclosure and training rule is very similar as the one that was before you at the face to face Federal Council in Adelaide except that references to Rule 24 are replaced with Rule 36. It also takes in amendments suggested by the subsequent legal and FWC advice.

PROPOSED CHANGES TO THE CHAPTER C RULES OF THE CPSU

It is proposed that the current rule 36 Chapter C which presently reads “36 DELETED” be deleted and replaced with the following:

36. FINANCIAL DISCLOSURE AND TRAINING OBLIGATIONS FOR THE GROUP AND ITS BRANCHES

36.1 Preamble

- (a) This rule is included to comply with the financial disclosure, policy development and training requirements of Division 3A of the *Fair Work (Registered Organisations) Act 2009*
- (b) For the absence of doubt this rule provides for disclosure by the Group to its members and by each Branch to its members, for the financial training of the Group officers and Branch officers, and for policy development by the Group and each of its Branches.

36.2 Interpretation of this Rule

For the purposes of this rule:

- (a) A **board** means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.
- (b) **CPSU** means CPSU, The Community and Public Sector Union.
- (c) **disclosure period** means the financial year unless a shorter period is specified.
- (d) **declared person or body** means:
 - (i) an officer of the Group or Branch has disclosed a material personal interest under **Rules 36.5(c) and 36.6(c)**;
 - (ii) the interest relates to, or is in, the person or body; and
 - (iii) the officer has not notified the Group or Branch that the officer no longer has the interest.
- (e) **financial duties** means duties that relate to the financial management of the Group or a Branch of the Group.

- (f) **General Manager** means the General Manager of the Fair Work Commission.
- (g) **Group** means CPSU, The Community and Public Sector Union SPSF Group.
- (h) **non-cash benefit** means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (i) **peak council** has the same meaning as defined by section 12 of the *Fair Work Act 2009*.
- (j) **office** has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*.
- (k) **officer** has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*.
- (l) **related party** has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.
- (m) **relative** means, in relation to a person:
 - (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or
 - (ii) the spouse of the first mentioned person.
- (n) **relevant remuneration** in relation to an officer of the Group or Branch for a disclosure period is the sum of the following:
 - (i) any remuneration disclosed to the Group or Branch by the officer under **Rules 36.5(a) and 36.6(a)** during the disclosure period;
 - (ii) any remuneration paid during the disclosure period, to the officer by the CPSU, the Group or a Branch
- (o) **relevant non-cash benefits** means, in relation to an officer of the Group or Branch for a disclosure period the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer's duties as an officer, by the Group or Branch or by a related party of the Group or Branch.
- (p) **remuneration**:
 - (i) includes pay, wages, salary, fees, allowances, leave benefits or other entitlements; but
 - (ii) does not include a non-cash benefit; and
 - (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

36.3 **Group and Branch Officer Training Obligations**

- (a) Each officer of the Group and each officer of any Branch whose duties include financial duties that relate to the financial management of the Group or the Branch must undertake training that covers each of the officer's financial duties.
- (b) The financial training must be approved by the General Manager under section 154C of the *Fair Work (Registered Organisations) Act 2009* and

must be completed within 6 months from the date at which the officer of the Group or the Branch began to hold that office.

36.4 Method of Disclosure for the Purposes of this Rule

(a) Annual disclosures for higher paid officers and related party payments

The disclosures by the Group required by **Rule 36.5(b), 36.5(d) and 36.5(e)** and by Branches by **Rules 36.6(b), 36.6(d) and 36.6(e)** will be:

- (i) made in respect of each financial year;
- (ii) published within six months after the end of the financial year using one or more of the following methods;
 - Publication in the print journal (if any) of the Group, the Branch or the Associated Body;
 - Publication in the Branch or Group annual report;
 - Publication on the Group, Branch or Associated Body website;
 - Publication in the general purpose financial report provided under s253 of the *Fair Work (Registered Organisations) Act 2009*;
 - Publication in the operating report provided under s254 of the *Fair Work (Registered Organisations) Act 2009*;
 - Such other means prescribed in the rules of a Branch provided the method of disclosure is available to all members of the Branch;

(b) More frequent disclosures of Board remuneration, non cash benefits, and material personal benefits and payments from related parties.

- (i) The disclosures of Group officers required by **Rules 36.5(a) and 36.5(c)** and of the Branch officers by **Rules 36.6(a) and 36.6(c)** of this Rule will be made:
 - In the case of the Federal President to the Federal Executive of the Group;
 - In the case of a Federal Secretary to the Federal President of the Group;
 - In the case of a Group officer to the Federal President of the Group;
 - In the case of the Branch President to Branch Executive of the Branch
 - In the case of a Branch Secretary to the Branch President of the Group;
 - In the case of a Branch officer to the Branch President of the Branch;
- (ii) The method of disclosure will be in writing as soon as practicable after the remuneration is paid or the material personal interest acquired. Also the disclosure must be made before the end of the financial quarter in which the remuneration is paid or the material personal interest acquired,. For the purposes of **Rule 36.4(b)**

disclosures the end of each financial quarter shall be 30 September, 31 December, 31 March and 30 June.

36.5 Group and Group Officer Disclosure

(a) Relevant remuneration and non-cash benefits

Each officer of the Group shall disclose to the Group in the manner prescribed in **Rule 36.4(b)** any remuneration paid to the officer:

- (i) because the officer is a member of a board, if:
 - the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;
- (ii) by any related party of the Group in connection with the performance of the officers' duties as an officer.

(b) Five highest paid Group officers

The Group shall disclose to members of the Group, in the manner prescribed in **Rule 36.4(a)**, the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits, or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) Material personal interests

Each officer of the Group shall disclose to the Group any material personal interest in a matter that relates to the affairs of the Group that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

(d) The Group shall disclose to members of the Group any interests disclosed to the Group pursuant to **Rule 36.5(c) in a manner prescribed by **Rule 36.4(b)****

(e) Payments to related parties and declared persons

The Group shall disclose to members of the Group the following by a manner prescribed by **Rule 36.4(a)**:

- (i) each payment made by the Group, during the disclosure period:
 - to a related party of the Group; or
 - to a declared person or body of the Group; or
- (ii) the total of the payments made by the Group, during the disclosure period:
 - to each related party of the Group; or
 - to each declared person or body of the Group

- (f) **Rule 36.5(e)** does not apply to:
- (i) a payment made to a related party if the payment consists of amounts deducted by the organisation from remuneration payable to officers or employees of the organisation.
 - (ii) payments to officers, who are related parties, that are remuneration;
 - (iii) payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking duties of an officer

36.6 Branch and Branch Officer Disclosure

(a) **Remuneration paid to the officer**

Each officer of a Branch shall disclose to the Branch any remuneration paid to the officer:

- (i) because the officer is a member of a board, if
 - the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;
- (ii) by any related party of the Branch in connection with the performance of the officer's duties as an officer.

(b) **Five highest paid Branch officer disclosure**

The Branch shall disclose to members of the Branch in a manner prescribed in **Rule 36.4(a)** the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) **Material personal interests**

Each officer of a Branch shall disclose to the Branch any material personal interest in a matter that relates to the affairs of a Branch that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

(d) The Branch shall disclose to members of the Branch any interests disclosed to the Branch pursuant to **Rule 36.6(c)** in a manner prescribed by **Rule 36.4(a)**

(e) **Payments to related parties and declared persons**

Each Branch shall disclose to members of the Branch in the manner prescribed by **Rule 36.4(a)** either:

- (i) each payment made by the Branch, during the disclosure period:
 - to a related party of the Branch; or
 - to a declared person or body of the Branch; or
- (ii) the total of the payments made by the Branch, during the disclosure period:
 - to each related party of the Branch; or
 - to each declared person or body of the Branch.
- (f) **Rule 36.6(e)** does not apply to:
 - (i) A payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch.
 - (ii) Payments to officers, who are related parties, that are remuneration
 - (iii) Payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking the duties of an officer

36.7 Group and Branch Expenditure Policies and Procedures

The Group and each Branch shall develop and implement policies and procedures relating to the expenditure of the Group and each Branch respectively.

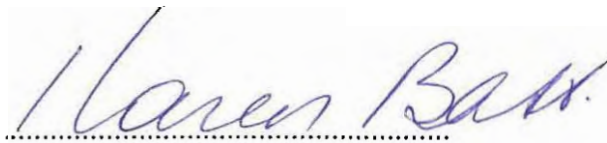
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Fair Work Commission

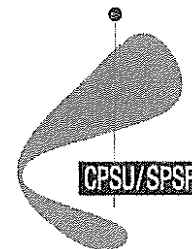
Fair Work (Registered Organisations) Act 2009

**An Application for A Proposed Amendment to the Chapter C Rules Of the CPSU to
Insert a New Rule 36 under S159 and Regulation 126**

**ATTACHMENT "KMB 2" TO THE 20 JUNE 2014 DECLARATION OF KAREN
BATT IN SUPPORT OF THE APPLICATION TO AMEND CHAPTER C BY THE
INSERTION OF A NEW RULE 36.**

A handwritten signature in blue ink that reads "Karen Batt." The signature is written in a cursive style and is positioned above a horizontal dotted line.

Karen Michele Batt



**COMMUNITY & PUBLIC SECTOR UNION
STATE PUBLIC SERVICES FEDERATION GROUP**

**FEDERAL EXECUTIVE
SPECIAL MEETING
TELECONFERENCE**

**MINUTES
2nd MAY 2014**

1. HOURS OF SITTING

Moved: K Batt
Seconded: P Lillywhite

“That the hours of sitting be from 4.00pm until close of business as per Agenda”.

CARRIED

2. ROLL CALL

Karen Batt - Federal Secretary	
Peter Lillywhite – Victoria	Proxy for Catherine Davies
Tom Lynch - Tasmania	Proxy for Grant Ransley
Sue Walsh -New South Wales	
Neville Kitchin - South Australia	Proxy for Jan McMahon
Lindsay Oxlad - South Australia	
Lea McKay - Western Australia	
Denise Hendon - Western Australia	Proxy for Toni Walkington
John Welch - WAPOU WA No 2	
Ken Brown - WAPOU WA No 2	

APOLOGIES

Catherine Davies - Victoria
Grant Ransley - Tasmania
Jan McMahon - South Australia
Toni Walkington - Western Australia

STAFF

Mark Perica - Federal Office: Melbourne
Troy Wright - Federal Office: Sydney
Peter Christopher – South Australia SIO

OBSERVERS

CPSU SPSF Federal Office Minutes: 2ND May 2014

3. FEDERAL SECRETARY REPORT

Mark Perica provided a verbal report on the need for this ballot following discussions with FWC on the current draft of the Chapter C Rules

FINANCIAL TRAINING AND DISCLOSURE GOVERNANCE RULE

Moved: K Batt
Seconded: L Oxlad

“Part 1.

1. The Federal Executive having read the memorandum of Wednesday 30 April and heard the report resolves to:
 - 1.1. Approve the proposed rule change to Rule 36 dealing with financial disclosure and contained in that memorandum.
 - 1.2. Submit this proposed rule change to Federal Council for approval by Postal Ballot under Business of Federal Executive Rule 33.F and to enable a postal ballot of Federal Council under Rule 42.
 - 1.3. Instruct the Federal Secretary to take all necessary steps to:
 - 1.3.1. submit the proposed rule change to the Federal Council by postal ballot as a matter of urgency; and
 - 1.3.2. Should Federal Council approve the proposed rule change take all necessary steps to submit the proposed rule change to the Fair Work Commission for its consideration.”

CARRIED UNANIMOUSLY

MEETING CLOSED: 4.45PM

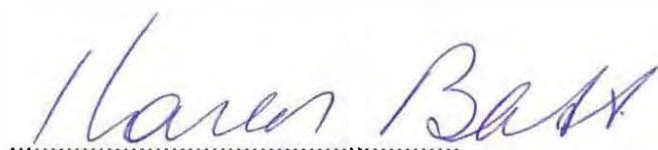
4. DATE OF NEXT MEETING – 15TH MAY 2014 - HOBART

Fair Work Commission

Fair Work (Registered Organisations) Act 2009

**An Application for A Proposed Amendment to the Chapter C Rules Of the CPSU to
Insert a New Rule 36 under S159 and Regulation 126**

**ATTACHMENT "KMB 3" TO THE 20 JUNE 2014 DECLARATION OF KAREN
BATT IN SUPPORT OF THE APPLICATION TO AMEND CHAPTER C BY THE
INSERTION OF A NEW RULE 36.**



Karen Michele Batt

Mark Perica

From: Mark Perica
Sent: Monday, 5 May 2014 10:11 AM
To: Boyd Kellner (NSW); Brian Dodds (WA); Brian Webb (NSW); Catherine Davies (VIC); 'Denise Henden'; Gavin Richards (WA); Grant Ransley (TAS); Jan McMahon (SA); 'Jenny Singleton'; John Welch; Karen Batt (VIC); Ken Brown; 'Lea McKay'; Leon Parissi (NSW); Lesley Hughes; Linda Barclay-Hales (NSW); Lindsay Oxlad (SA); 'Liz Free'; Margaret McLoughlin-Fullick (NSW); Margaret Warner (SA); Mark Nestor (VIC); Mathew Johnston (TAS); Neville Kitchin (SA); Nicole Jess (NSW); Peter Lillywhite (VIC); Ron Davis (NSW); Rosmyn Faulks (TAS); Steve Turner (NSW); Sue Walsh (NSW); Tom Lynch (TAS); Toni Walkington (WA); Wendy Hurry (NSW)
Cc: Karen Batt (VIC); Tom Lynch (TAS); Troy Wright
Subject: URGENT: FEDERAL COUNCIL BALLOT NO 2 - REQUIRES YOU TO VOTE ON A FINANCIAL DISCLOSURE AND TRAINING RULE
Attachments: FCBallot2memo.pdf; FCBNO2ballotpaper.docx

Dear Federal Councillors,

a. The March Federal Council

You will recall the face to face Federal Council meeting in Adelaide on 20 March 2014. At that meeting you resolved, in principle, to approve of a replacement to the Chapter C rules of the CPSU. You will also recall that replacement included a financial disclosure and training rule at Rule 24.

b. Consultations with the FWC about our proposed replacement Chapter C rule

Since that time, and in accordance with the resolutions made at the March meeting, we have been in informal consultations with the Fair Work Commission concerning the form of the proposed new rule book.

On Monday 28 April 2013 Karen Batt and Mark Perica met with the Fair Work Commission. Following that meeting it was clear that the informal discussions concerning the terms of our Chapter C Rule replacement will take some time.

c. Necessity to make a further application to place a financial disclosure and training rule in the existing Chapter C

Therefore, In order to comply with the deadline mandated by the *Fair Work (Registered Organisations) Act 2009* in relation to having a financial disclosure and training rule within our rule, it is necessary that we separate out the financial disclosure and training rule from the remainder of Chapter C and deal with it through our internal processes leading ultimately to an application to the Fair Work Commission while the remainder of our Chapter C replacement is under consideration

Please note that the proposed rule 36 is in a very similar form as the proposed Rule 24 which was approved in principle by the Executive and Council (with small amendments to take in the legal and FWC advice). References to Rule 24 have been changed to Rule 36

You should note that on Friday 2 May 2014 the Federal Executive voted to approve this proposed rule change and recommended it be put to the Council under Rule 42

d. The attachment memorandum and resolution for your urgent consideration

There are two attachments to this e-mail ;

- a pdf memorandum [**FCBallot2memo**] which sets out the circumstances which has lead us to seek your approval of the financial disclosure and training rule; and
- a ballot paper in word [**FCBNo2ballotpaper**] which proposes a resolution asking you to approve the inclusion of a new rule 36 in the existing Chapter C rules and to empower the Federal Secretary to take all steps to have the proposed Rule 36 approved by the Fair Work Commission.

e. How to vote and when the voting period closes

In the attached memo the Federal Secretary asks that you consider this proposal and then exercise your vote by printing, completing and signing the attached ballot paper [FCBNO2ballotpaper] before returning it to Troy Wright either by fax on 02 9299 7181 or by email at twright@spsf.asn.au .

We urge you to vote in this ballot as quickly as possible. It would be ideal if you could return your ballot in the next ten days.

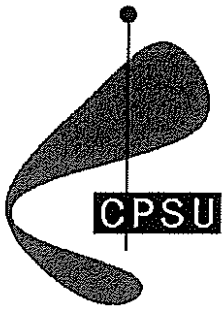
Under Rule 42(C) the Federal Secretary is required to advise you that the period in which you are able to record a vote is "not less than thirty days", meaning the latest the ballot will close is on **5 June 2014** . Rule 42(E) allows a decision to become effective before that date is reached where an absolute majority has been received in favour of the proposal and other provisions of the clause are satisfied.

f. **Ballot to Troy Wright questions to Mark Perica or the Federal Secretary**

Should you have any queries please do not hesitate to contact either the Federal Secretary or myself on the telephone number 0408 129 965 or on my e-mail mperica@spsf.asn.au

Yours Sincerely

Mark D. Perica



MEMORANDUM TO CPSU-SPSF GROUP FEDERAL COUNCIL

To: Members of the CPSU-SPSF Group Federal Council
From: Karen Batt, Federal Secretary
Date: Monday 5 May 2014
Subject: **Federal Council Ballot No 2 of 2014 - ballot to approve rule change to incorporate new financial governance and disclosure rules prior to the replacement of the existing Chapter C rule**

PART 1. BACKGROUND

Necessity for a rule change application for the financial training and disclosure rule following our most recent meeting with FWC.

1. Federal Councillors will recall that the CPSU that in 2012 the **Fair Work (Registered Organisations) Act 2009** was amended to prescribe disclosure and training obligations on its federal officers.
2. On or before June 2013 the Federal Office made an application to the Fair Work Commission to satisfy these requirements.
3. On Monday 2 December 2013 (five months latter) the Federal Office sent an e-mail requesting a status report on the rule change application. A short e-mail was received on Tuesday 3 December indicating the relevant staff were working through the issues with respect to the rule change application.
4. On 17 February 2014 (some eight months since the application) Fair Work wrote to the Federal Secretary concerning this application and indicated some problems with its form. For example, the Fair Work Commission was concerned that the disclosure requirements within that draft may be considered oppressive of the Federal Officers.
5. On 26 February 2014 Mark Perica, Troy Wright and Lindsay Benfell met with Fair Work Commission on an informal basis to work through their suggestions in the letter

of 14 February 2014 concerning the form of the application to include a financial training and disclosure rule. The redraft of the Chapter C rules was also discussed.

6. On Thursday 20 March 2014 the Federal Council considered a replacement for the current existing Chapter C Rule (including a new version of the financial training and disclosure rule) and resolved the following:
 - 6.1. To support, in principal, the draft of the Chapter C rule including the financial disclosure and training rule (at Rule 24 in that draft) that was then before it.
 - 6.2. Direct the Federal Secretary to informally approach the Fair Work Commission for consultations prior to the Replacement being formally put through the decision making bodies of the CPSU
 - 6.3. Strongly urge the FWC to deal with the informal consultations urgently.
7. On 28 March 2014, in accordance with those resolutions, the Federal Secretary, sent the draft replacement Chapter C rule (including the redraft of the financial training and disclosure rule) on an informal basis, to the Fair Work Commission for consultations concerning its form.
8. On 8 April 2014, Mark Perica, sent an e-mail to Fair Work Commission following up on the 28 March letter and requesting an urgent meeting.
9. On 28 April 2014, Mark Perica and Karen Batt met with Fair Work Commission concerning the draft replacement Chapter C rule. It became clear then that the informal consultations with the Fair Work Commission on the form of the Chapter C rule will take some time.
10. In those circumstances it is prudent that a further application be made to amend the financial training and disclosure rule in the existing rule prior to the current Chapter C rule being replaced.
11. The form of the financial disclosure and training rule is very similar as the one that was before you at the face to face Federal Council in Adelaide (it takes in the legal advice and the further advice of FWC). The other change is the references to Rule 24 are replaced with Rule 36.

12. This ballot is necessary to ensure that the application to approve the placement of the financial training and disclosure rule is in the system while the consultations on the remainder of the Chapter C rule are ongoing.

Federal Executive resolution approving of this proposed rule change

13. On Friday 2 May 2014 the Federal Executive unanimously approved the following proposed rule changes and empowered me to take all necessary steps to submit this proposed rule change to Federal Council for approval by Postal Ballot under Business of Federal Executive Rule 33.F and to enable a postal ballot of Federal Council under Rule 42.

14. This ballot is therefore submitted to the Federal Council pursuant to that unanimous resolution of the Federal Executive.

15. You should note that should you vote in favour of this form of rule change it would supersede the current application to insert a rule change for financial disclosure and training which is before the Commission in R 2013/382. The form of words sought in that application has been the subject of criticism by the Fair Work Commission (as referred to above in paragraph 4). Should the Council vote in favour of this resolution and a further rule change application be made that earlier application will be withdrawn.

Requirement for urgency in the return of this ballot

16. May I reiterate we require your return ballot as a matter of urgency. Should we not have a rule change made in these (or similar) terms before **29 June 2014** we expose ourselves to civil penalties for breach of the new law.

PART 2 RECOMMENDATIONS:

PROPOSITION ONE:

The Federal Council:

- recommends, agrees to and endorses the following proposed alteration of Chapter C Rule 36 and;
- empowers the Federal Secretary and the Federal Office staff to take all necessary steps to have this proposed rule approved by the Fair Work Commission as a matter of urgency

PROPOSED CHANGES TO THE CHAPTER C RULES OF THE CPSU

It is proposed that the current rule 36 Chapter C which presently reads "36 DELETED" be deleted and replaced with the following:

36. FINANCIAL DISCLOSURE AND TRAINING OBLIGATIONS FOR THE GROUP AND ITS BRANCHES

36.1 Preamble

- (a) This rule is included to comply with the financial disclosure, policy development and training requirements of Division 3A of the *Fair Work (Registered Organisations) Act 2009*
- (b) For the absence of doubt this rule provides for disclosure by the Group to its members and by each Branch to its members, for the financial training of the Group officers and Branch officers, and for policy development by the Group and each of its Branches.

36.2 Interpretation of this Rule

For the purposes of this rule:

- (a) A **board** means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.
- (b) **CPSU** means CPSU, The Community and Public Sector Union.
- (c) **disclosure period** means the financial year unless a shorter period is specified.
- (d) **declared person or body** means:
 - (i) an officer of the Group or Branch has disclosed a material personal interest under **Rules 36.5(c) and 36.6(c)**;
 - (ii) the interest relates to, or is in, the person or body; and
 - (iii) the officer has not notified the Group or Branch that the officer no longer has the interest.
- (e) **financial duties** means duties that relate to the financial management of the Group or a Branch of the Group.

- (f) **General Manager** means the General Manager of the Fair Work Commission.
- (g) **Group** means CPSU, The Community and Public Sector Union SPSF Group.
- (h) **non-cash benefit** means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (i) **peak council** has the same meaning as defined by section 12 of the *Fair Work Act 2009*.
- (j) **office** has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*.
- (k) **officer** has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*.
- (l) **related party** has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.
- (m) **relative** means, in relation to a person:
 - (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or
 - (ii) the spouse of the first mentioned person.
- (n) **relevant remuneration** in relation to an officer of the Group or Branch for a disclosure period is the sum of the following:
 - (i) any remuneration disclosed to the Group or Branch by the officer under **Rules 36.5(a) and 36.6(a)** during the disclosure period;
 - (ii) any remuneration paid during the disclosure period, to the officer by the CPSU, the Group or a Branch
- (o) **relevant non-cash benefits** means, in relation to an officer of the Group or Branch for a disclosure period the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer's duties as an officer, by the Group or Branch or by a related party of the Group or Branch.
- (p) **remuneration**:
 - (i) includes pay, wages, salary, fees, allowances, leave benefits or other entitlements; but
 - (ii) does not include a non-cash benefit; and
 - (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

36.3 Group and Branch Officer Training Obligations

- (a) Each officer of the Group and each officer of any Branch whose duties include financial duties that relate to the financial management of the Group or the Branch must undertake training that covers each of the officer's financial duties.
- (b) The financial training must be approved by the General Manager under section 154C of the *Fair Work (Registered Organisations) Act 2009* and

must be completed within 6 months from the date at which the officer of the Group or the Branch began to hold that office.

36.4 Method of Disclosure for the Purposes of this Rule

(a) Annual disclosures for higher paid officers and related party payments

The disclosures by the Group required by **Rule 36.5(b), 36.5(d) and 36.5(e)** and by Branches by **Rules 36.6(b), 36.6(d) and 36.6(e)** will be:

- (i) made in respect of each financial year;
- (ii) published within six months after the end of the financial year using one or more of the following methods;
 - Publication in the print journal (if any) of the Group, the Branch or the Associated Body;
 - Publication in the Branch or Group annual report;
 - Publication on the Group, Branch or Associated Body website;
 - Publication in the general purpose financial report provided under s253 of the *Fair Work (Registered Organisations) Act 2009*;
 - Publication in the operating report provided under s254 of the *Fair Work (Registered Organisations) Act 2009*;
 - Such other means prescribed in the rules of a Branch provided the method of disclosure is available to all members of the Branch;

(b) More frequent disclosures of Board remuneration, non cash benefits, and material personal benefits and payments from related parties.

- (i) The disclosures of Group officers required by **Rules 36.5(a) and 36.5(c)** and of the Branch officers by **Rules 36.6(a) and 36.6(c)** of this Rule will be made:
 - In the case of the Federal President to the Federal Executive of the Group;
 - In the case of a Federal Secretary to the Federal President of the Group;
 - In the case of a Group officer to the Federal President of the Group;
 - In the case of the Branch President to Branch Executive of the Branch
 - In the case of a Branch Secretary to the Branch President of the Group;
 - In the case of a Branch officer to the Branch President of the Branch;
- (ii) The method of disclosure will be in writing as soon as practicable after the remuneration is paid or the material personal interest acquired. Also the disclosure must be made before the end of the financial quarter in which the remuneration is paid or the material personal interest acquired,. For the purposes of **Rule 36.4(b)**

disclosures the end of each financial quarter shall be 30 September, 31 December, 31 March and 30 June.

36.5 Group and Group Officer Disclosure

(a) Relevant remuneration and non-cash benefits

Each officer of the Group shall disclose to the Group in the manner prescribed in **Rule 36.4(b)** any remuneration paid to the officer:

- (i) because the officer is a member of a board, if:
 - the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;
- (ii) by any related party of the Group in connection with the performance of the officers' duties as an officer.

(b) Five highest paid Group officers

The Group shall disclose to members of the Group, in the manner prescribed in **Rule 36.4(a)**, the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits, or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) Material personal interests

Each officer of the Group shall disclose to the Group any material personal interest in a matter that relates to the affairs of the Group that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

(d) The Group shall disclose to members of the Group any interests disclosed to the Group pursuant to **Rule 36.5(c) in a manner prescribed by **Rule 36.4(b)****

(e) Payments to related parties and declared persons

The Group shall disclose to members of the Group the following by a manner prescribed by **Rule 36.4(a)**:

- (i) each payment made by the Group, during the disclosure period:
 - to a related party of the Group; or
 - to a declared person or body of the Group; or
- (ii) the total of the payments made by the Group, during the disclosure period:
 - to each related party of the Group; or
 - to each declared person or body of the Group

- (f) **Rule 36.5(e)** does not apply to:
- (i) a payment made to a related party if the payment consists of amounts deducted by the organisation from remuneration payable to officers or employees of the organisation.
 - (ii) payments to officers, who are related parties, that are remuneration;
 - (iii) payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking duties of an officer

36.6 Branch and Branch Officer Disclosure

(a) Remuneration paid to the officer

Each officer of a Branch shall disclose to the Branch any remuneration paid to the officer:

- (i) because the officer is a member of a board, if
 - the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;
- (ii) by any related party of the Branch in connection with the performance of the officer's duties as an officer.

(b) Five highest paid Branch officer disclosure

The Branch shall disclose to members of the Branch in a manner prescribed in **Rule 36.4(a)** the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) Material personal interests

Each officer of a Branch shall disclose to the Branch any material personal interest in a matter that relates to the affairs of a Branch that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

(d) The Branch shall disclose to members of the Branch any interests disclosed to the Branch pursuant to **Rule 36.6(c) in a manner prescribed by **Rule 36.4(a)****

(e) Payments to related parties and declared persons

Each Branch shall disclose to members of the Branch in the manner prescribed by **Rule 36.4(a)** either:

- (i) each payment made by the Branch, during the disclosure period:
 - to a related party of the Branch; or
 - to a declared person or body of the Branch; or

- (ii) the total of the payments made by the Branch, during the disclosure period:
 - to each related party of the Branch; or
 - to each declared person or body of the Branch.
- (f) **Rule 36.6(e)** does not apply to:
 - (i) A payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch.
 - (ii) Payments to officers, who are related parties, that are remuneration
 - (iii) Payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking the duties of an officer

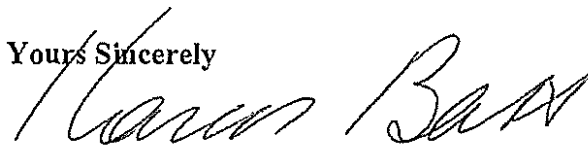
36.7 Group and Branch Expenditure Policies and Procedures

The Group and each Branch shall develop and implement policies and procedures relating to the expenditure of the Group and each Branch respectively.

PLEASE COMPLETE THE ATTACHED PROFORMA AND RETURN BY EMAIL TO TWRIGHT@SPSF.ASN.AU OR BY FAX TO TROY WRIGHT, SPSF GROUP FEDERAL OFFICE

FAX: (02) 9299 7181

Yours Sincerely



**Karen Batt
Federal Secretary**

PART 3 SPSF GROUP FEDERAL COUNCIL BALLOT

Fax: 02 9299 7181
To: Karen Batt, Federal Secretary
Attn: Troy Wright

Re: Federal Council Ballot no. 2 of 2014

I hereby vote to

- **Recommend, agree and endorse the proposed alteration of Chapter C Rule 36 and;**
- **empower the Federal Secretary and the Federal Office staff to take all necessary steps to have this proposed rule approved by the Fair Work Commission as a matter of urgency**

YES / NO

***Please circle your vote**

Name: _____

Signature: _____

Position: _____

Date: _____ / _____ /2014

Fair Work Commission

Fair Work (Registered Organisations) Act 2009

**An Application for A Proposed Amendment to the Chapter C Rules Of the CPSU to
Insert a New Rule 36 under S159 and Regulation 126**

**ATTACHMENT "KMB 4" TO THE 20 JUNE 2014 DECLARATION OF KAREN
BATT IN SUPPORT OF THE APPLICATION TO AMEND CHAPTER C BY THE
INSERTION OF A NEW RULE 36.**



Karen Michele Batt

DECLARATION

Re: Postal Ballot under Rule 42

The Federal Executive determined that a postal ballot be held on the following proposal, and issued it to delegates on 5 May 2014.

Proposal: FEDERAL COUNCIL BALLOT 2.2014

PROPOSITION 1

That the Federal Council :

- **recommends, agrees to and endorses the following proposed alteration of Chapter C Rule 36 and;**
- **empowers the Federal Secretary and the Federal Office staff to take all necessary steps to have this proposed rule approved by the Fair Work Commission as a matter of urgency.**

A copy of the proposed rule at five and a half pages in length in full was following.

Rule 42(E) relevantly provides:

"A decision by postal ballot shall become effective before the time appointed is reached if and when it has received in its favour an absolute majority of the total votes exercisable and the provisions set out above have been met."

The result is as follows:

Federal Council Ballot 2.2014

PROPOSITION 1

Total votes exercisable 94

Total votes exercised 62

As this is in excess of 50% of the votes exercisable, the requirements of rule 42(E) (i) have been met.

Total votes in favour 62

Total votes against 0

A majority of votes cast were in favour.

The proposal has been carried and is effective.



**Karen Batt
Federal Secretary**

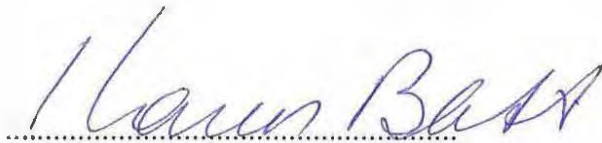
14 May 2014

Fair Work Commission

Fair Work (Registered Organisations) Act 2009

**An Application for A Proposed Amendment to the Chapter C Rules Of the CPSU to
Insert a New Rule 36 under S159 and Regulation 126**

**ATTACHMENT "KMB 5" TO THE 20 JUNE 2014 DECLARATION OF KAREN
BATT IN SUPPORT OF THE APPLICATION TO AMEND CHAPTER C BY THE
INSERTION OF A NEW RULE 36.**

A handwritten signature in blue ink, reading "Karen Batt", written over a dotted line.

Karen Michele Batt

Mark Perica

From: Lindsay Benfell [Lindsay.Benfell@cpsu.org.au]
Sent: Tuesday, 3 June 2014 2:01 PM
To: Nadine Flood; Toni Walkington (WA); Sue Walsh (NSW); Karen Batt (VIC); Jan McMahon (SA); Tom Lynch (TAS); Michael Tull; Louise Persse; Lisa Newman; Alistair Waters
Cc: Mark Perica; Rebecca Gow; Troy Wright
Subject: Notice of CPSU National Officers Committee Meeting to be held on 19th June 2014: Agenda and Papers
Attachments: CPSU National Officers Committee meeting agenda 19062014.docx; Draft Minutes CPSU NOC meeting 15 April 2014.docx; PROTOCOL TO EXPEDITE THE PROCEDURE FOR PROGRESSING RULE CHANGES BETWEEN THE GROUPS June 2014.docx; Proposal to NOC to amend Governance Provisions in Chapter A – General of the CPSU Rules re governance June 2014.docx; FCBallot2memo re governance May 2014(3).pdf; memorandum to NOC on proposed Chapter C Rule 36 June 2014.docx; Declaration May 2014 Federal Council Ballot 2_2014(Financial Governance and Disclosures) (4).docx; FWC to CPSU and Branches -Reporting Unit changes advice May 2014.docx; SPSF Federal Council Ballot papers re NDIS coverage SCHEDULE B.docx; Federal Council Ballot papers NDIS 27 May 2014.pdf

Notice is hereby given for a meeting of the CPSU National Officers Committee (NOC) convened by the Joint National Secretaries.

The meeting will be held on **Thursday 19th June 2014 from 4:30pm AEST**

The meeting will be held via teleconference.

The Dial In details are:

Dial 1800 658 960
PIN 872071

The proposed Agenda and associated papers are attached .

Lindsay Benfell | Senior Industrial Officer | Community and Public Sector Union | ph 02 8204 6986 | mob 0400407304 | Lindsay.Benfell@cpsu.org.au | www.cpsu.org.au

Community and Public Sector Union values: By joining our union you help make our workplaces and communities fairer. We believe every worker deserves; dignity and respect; a safe workplace; decent pay and conditions; rights at work and a balanced working life. Together we provide; a voice for all workers; support and promote a strong, independent public sector and make a difference.

Find out more on 1300 137 636 or [join online](#).

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CPSU NATIONAL OFFICERS COMMITTEE



Meeting Thursday 19th June 2014

Agenda

Notice is hereby given for a meeting of the CPSU National Officers Committee (NOC) convened by the Joint National Secretaries.

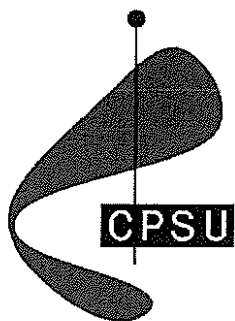
The meeting will be held on **Thursday 19th June 2014 from 4:30pm AEST**

Location: By teleconference

Please advise if you are not attending and are nominating a proxy.

Proposed agenda

- 1. Attendance and apologies**
- 2. Confirmation of Minutes of 15 April 2014 and any matters arising**
 - a. A copy of the Draft Minutes of the April 15 2014 NOC meeting is attached
- 3. Update on TQ/SPSF Qld Branch matters**
- 4. Governance**
 - a. Chapter A rule change re governance**
 - i. A copy of the Draft resolution is attached
 - b. Chapter C rule change re governance**
 - i. A copy of the SPSF declaration, the proposed changes and Draft resolution is attached



MEMORANDUM TO THE NATIONAL OFFICERS COMMITTEE

To: Members of CPSU National Officers Committee

From: Mark Perica, Senior Legal Officer CPSU(SPSF) on behalf of Karen Batt

Date: Tuesday 3 June 2014

Subject: **Recommendation to the NOC for an approval of proposed change to the Chapter C rule book by the addition of a new rule 36 concerning financial disclosure and training**

PART 1. DRAFT RESOLUTION

The National Officers Committee; having read the memorandum of Mark Perica dated 3 June 2014, the memorandum of Karen Batt to the Federal Council of the SPSF Group dated 5 May 2014; and on the recommendation of the SPSF Group: Resolves to approve the proposed rule change to Rule 36 of Chapter C dealing with financial disclosure and training contained in the 3 June memorandum in accordance with the NOC powers provided for in Chapter A Rule 15 (d) (iii)

PART 2. BACKGROUND

1. The background of this matter is contained in the memorandum of Karen Batt dated Monday 5 May 2014 and entitled "*Federal Council Ballot No 2 of 2014 – ballot to approve rule change to incorporate new financial governance and disclosure rules prior to the replacement of the existing Chapter C rule*" which has been forwarded to the officers of the NOC with this memorandum (the "Federal Council Memo").
2. On 5 May 2014 the Federal Council Memo and a ballot paper was sent to the SPSF Group Federal Councillors as an out of session ballot under Rule 42 of the Chapter C Rules.
3. The ballot was for the SPSF Group Federal Councillors to approve the proposed rule 36 to the Chapter C rule which is set out in Part 3 of this memorandum. In the e-mail which attached the Federal Council Memo and the ballot paper it indicated that the ballot would "remain open until 5 June 2014".
4. The SPSF Group Federal Council ballot was initiated by a resolution of the SPSF Federal Executive on Friday 2 May 2013. Facts relevant to that Federal Executive resolution are set out in paragraphs 13 and 14 of the Federal Council Memo.

5. As the out of session ballot was initiated by the SPSF Group Federal Executive the rules require that the ballot can be passed once a “majority of the total votes exercisable by Federal Councillors have been exercised...” under Chapter C Rule 42.E (i).
6. On 14 May 2014 Karen Batt, the Federal Secretary of the SPSF Group, declared the ballot was “carried and effective” under rule 42E of the Chapter C rules which states: “a decision by postal ballot shall become effective before the time appointed is reached if and when it has received in its favour an absolute majority of the total votes exercisable”. The votes cast by the Federal Councillors for the ballot had reached that point by 14 May 2014. It was therefore not necessary to keep the ballot open until 5 June 2014.
7. As the terms of the proposed rule change have been approved by the Federal Council of the SPSF Group the SPSF Federal Council recommends the proposed rule change for approval by the NOC.
8. The NOC should note that, should it vote in favour of this form of rule change, it would supersede the earlier application to insert a financial disclosure and training rule in Chapter C which is the subject of R2013/382 currently before the Fair Work Commission. Should NOC vote to approve this new form of words that application will be withdrawn.
9. The documents attached to this memorandum are:
 - 9.1. The Federal Council Memo;
 - 9.2. The “Declaration of a postal ballot under Rule 42” issued by Karen Batt, the Federal Secretary of the SPSF Group on 14 May 2014



Mark Perica
Senior Legal Officer, CPSU(SPSF)

PART 3 PROPOSED CHANGES TO THE CHAPTER C RULES

It is proposed that the current rule 36 Chapter C which presently reads “36 DELETED” be deleted and replaced with the following:

36. FINANCIAL DISCLOSURE AND TRAINING OBLIGATIONS FOR THE GROUP AND ITS BRANCHES

36.1 Preamble

- (a) This rule is included to comply with the financial disclosure, policy development and training requirements of Division 3A of the *Fair Work (Registered Organisations) Act 2009*
- (b) For the absence of doubt this rule provides for disclosure by the Group to its members and by each Branch to its members, for the financial training of the Group officers and Branch officers, and for policy development by the Group and each of its Branches.

36.2 Interpretation of this Rule

For the purposes of this rule:

- (a) A **board** means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.
- (b) **CPSU** means CPSU, The Community and Public Sector Union.
- (c) **disclosure period** means the financial year unless a shorter period is specified.
- (d) **declared person or body** means:
 - (i) an officer of the Group or Branch has disclosed a material personal interest under **Rules 36.5(c) and 36.6(c)**;
 - (ii) the interest relates to, or is in, the person or body; and
 - (iii) the officer has not notified the Group or Branch that the officer no longer has the interest.
- (e) **financial duties** means duties that relate to the financial management of the Group or a Branch of the Group.
- (f) **General Manager** means the General Manager of the Fair Work Commission.
- (g) **Group** means CPSU, The Community and Public Sector Union SPSF Group.
- (h) **non-cash benefit** means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (i) **peak council** has the same meaning as defined by section 12 of the *Fair Work Act 2009*.
- (j) **office** has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*.
- (k) **officer** has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*.

- (l) **related party** has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.
- (m) **relative** means, in relation to a person:
 - (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or
 - (ii) the spouse of the first mentioned person.
- (n) **relevant remuneration** in relation to an officer of the Group or Branch for a disclosure period is the sum of the following:
 - (i) any remuneration disclosed to the Group or Branch by the officer under **Rules 36.5(a) and 36.6(a)** during the disclosure period;
 - (ii) any remuneration paid during the disclosure period, to the officer by the CPSU, the Group or a Branch
- (o) **relevant non-cash benefits** means, in relation to an officer of the Group or Branch for a disclosure period the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer's duties as an officer, by the Group or Branch or by a related party of the Group or Branch.
- (p) **remuneration:**
 - (i) includes pay, wages, salary, fees, allowances, leave benefits or other entitlements; but
 - (ii) does not include a non-cash benefit; and
 - (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

36.3 **Group and Branch Officer Training Obligations**

- (a) Each officer of the Group and each officer of any Branch whose duties include financial duties that relate to the financial management of the Group or the Branch must undertake training that covers each of the officer's financial duties.
- (b) The financial training must be approved by the General Manager under section 154C of the *Fair Work (Registered Organisations) Act 2009* and must be completed within 6 months from the date at which the officer of the Group or the Branch began to hold that office.

36.4 **Method of Disclosure for the Purposes of this Rule**

- (a) **Annual disclosures for higher paid officers and related party payments**

The disclosures by the Group required by **Rule 36.5(b), 36.5(d) and 36.5(e)** and by Branches by **Rules 36.6(b), 36.6(d) and 36.6(e)** will be:

- (i) made in respect of each financial year;
- (ii) published within six months after the end of the financial year using one or more of the following methods;
 - Publication in the print journal (if any) of the Group, the Branch or the Associated Body;
 - Publication in the Branch or Group annual report;

- Publication on the Group, Branch or Associated Body website;
 - Publication in the general purpose financial report provided under s253 of the *Fair Work (Registered Organisations) Act 2009*;
 - Publication in the operating report provided under s254 of the *Fair Work (Registered Organisations) Act 2009*;
 - Such other means prescribed in the rules of a Branch provided the method of disclosure is available to all members of the Branch;
- (b) **More frequent disclosures of Board remuneration, non cash benefits, and material personal benefits and payments from related parties.**
- (i) The disclosures of Group officers required by **Rules 36.5(a)** and **36.5(c)** and of the Branch officers by **Rules 36.6(a)** and **36.6(c)** of this Rule will be made:
- In the case of the Federal President to the Federal Executive of the Group;
 - In the case of a Federal Secretary to the Federal President of the Group;
 - In the case of a Group officer to the Federal President of the Group;
 - In the case of the Branch President to Branch Executive of the Branch
 - In the case of a Branch Secretary to the Branch President of the Group;
 - In the case of a Branch officer to the Branch President of the Branch;
- (ii) The method of disclosure will be in writing as soon as practicable after the remuneration is paid or the material personal interest acquired. Also the disclosure must be made before the end of the financial quarter in which the remuneration is paid or the material personal interest acquired,. For the purposes of **Rule 36.4(b)** disclosures the end of each financial quarter shall be 30 September, 31 December, 31 March and 30 June.

36.5 Group and Group Officer Disclosure

(a) **Relevant remuneration and non-cash benefits**

Each officer of the Group shall disclose to the Group in the manner prescribed in **Rule 36.4(b)** any remuneration paid to the officer:

- (i) because the officer is a member of a board, if:
- the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;

- (ii) by any related party of the Group in connection with the performance of the officers' duties as an officer.

(b) Five highest paid Group officers

The Group shall disclose to members of the Group, in the manner prescribed in **Rule 36.4(a)**, the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits, or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) Material personal interests

Each officer of the Group shall disclose to the Group any material personal interest in a matter that relates to the affairs of the Group that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

(d) The Group shall disclose to members of the Group any interests disclosed to the Group pursuant to **Rule 36.5(c) in a manner prescribed by **Rule 36.4(b)****

(e) Payments to related parties and declared persons

The Group shall disclose to members of the Group the following by a manner prescribed by **Rule 36.4(a)**:

- (i) each payment made by the Group, during the disclosure period:
 - to a related party of the Group; or
 - to a declared person or body of the Group; or
- (ii) the total of the payments made by the Group, during the disclosure period:
 - to each related party of the Group; or
 - to each declared person or body of the Group

(f) Rule 36.5(e) does not apply to:

- (i) a payment made to a related party if the payment consists of amounts deducted by the organisation from remuneration payable to officers or employees of the organisation.
- (ii) payments to officers, who are related parties, that are remuneration;
- (iii) payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking duties of an officer

36.6 Branch and Branch Officer Disclosure

(a) Remuneration paid to the officer

Each officer of a Branch shall disclose to the Branch any remuneration paid to the officer:

- (i) because the officer is a member of a board, if
 - the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;
- (ii) by any related party of the Branch in connection with the performance of the officer's duties as an officer.

(b) Five highest paid Branch officer disclosure

The Branch shall disclose to members of the Branch in a manner prescribed in **Rule 36.4(a)** the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) Material personal interests

Each officer of a Branch shall disclose to the Branch any material personal interest in a matter that relates to the affairs of a Branch that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

(d) The Branch shall disclose to members of the Branch any interests disclosed to the Branch pursuant to **Rule 36.6(c)** in a manner prescribed by **Rule 36.4(a)**

(e) Payments to related parties and declared persons

Each Branch shall disclose to members of the Branch in the manner prescribed by **Rule 36.4(a)** either:

- (i) each payment made by the Branch, during the disclosure period:
 - to a related party of the Branch; or
 - to a declared person or body of the Branch; or
- (ii) the total of the payments made by the Branch, during the disclosure period:
 - to each related party of the Branch; or
 - to each declared person or body of the Branch.

(f) **Rule 36.6(e)** does not apply to:

- (i) A payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch.

- (ii) Payments to officers, who are related parties, that are remuneration
- (iii) Payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking the duties of an officer

36.7 Group and Branch Expenditure Policies and Procedures

The Group and each Branch shall develop and implement policies and procedures relating to the expenditure of the Group and each Branch respectively.

END

**SCHEDULE X TO THE 20 JUNE APPLICATION OF THE CPSU TO INSERT A NEW
CLAUSE 36**

[090V-SPSF: Incorporates alterations of 17/2/2014 (R2013/382)]
replaces rulebook dated 4/11/2013

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009
that the pages herein numbered 1 to 73 both inclusive contain a true and correct copy
of the registered rules of the CPSU, the Community and Public Sector Union; Chapter
C - SPSF Group Rules and Schedule B - SPSF Group Rules for the Western
Australian Prison Officers' Union (WAPOU) Branch.

DELEGATE OF THE GENERAL MANAGER
FAIR WORK COMMISSION

Rules of the
CPSU, the Community and Public Service Union
Chapter C - SPSF Group Rules

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1 - DELETED

[See Chapter A Rule 1]

2 - INTERPRETATION

In this Chapter C

A. Unless the context otherwise requires:

- (i) Act means the Industrial Relations Act, 1988, as amended;
- (ii) Regulations means the Regulations made under the Act;
- (iii) the singular includes the plural and vice versa;
- (iv) the masculine includes the feminine and vice versa.
- (v) a reference in this Chapter to the "Rules" or "rules" is a reference to this Chapter of the Rules.

B. These rules shall be read subject to the provisions of the Act and the Regulations, such that:

- (i) unless the context otherwise requires, every rule or part thereof shall be read as limited by the provisions of the Act and Regulations; and
- (ii) any rule or part thereof which cannot be read as so limited shall be deemed to be severable from the balance of the rule or rules.

C. Council shall mean Federal Council and vice versa.

D. Executive shall mean Federal Executive and vice versa.

E. "Associated Body" shall mean:

- * The Public Service Association and Professional Officers Association Amalgamated Union of New South Wales
- * The Public Service Association of South Australia Incorporated
- * State Public Services Federation Tasmania
- * The Civil Service Association of Western Australia Incorporated
- * The Queensland Public Sector Union of Employees
- * The Western Australian Prison Officers' Union of Workers

or any successor thereto or reconstruction thereof by whatever name called.

F. Where any of these Rules confer a duty the rule or rules concerned shall also be interpreted as conferring a power to perform the duty upon the officer, person or body specified as having that duty.

G. A member who works in Higher Education shall mean a member employed in or by a University, College of Advanced Education, a Department of Technical and Further Education, a College or Institute of Technical and Further Education or are employed in or by any department, or part of a department or by any employer which the rules of the relevant Branch, or a resolution of the relevant Branch Council declares to be a Higher Education Body.

6 - APPLICATIONS FOR MEMBERSHIP

- H. A member who works in Health shall mean a member employed in or by a public hospital, private hospital or other private health service, nursing home, public dental clinic, area health service or community health service or facility providing ancillary patient services as determined by Branch Council, or are employed in or by any department, or art of a department or by any employer

which the rules of the relevant Branch, or a resolution of the relevant Branch Council declares to be a Health Services Body.

- I. Unless otherwise expressly indicated reference in these rules to a Branch Councillor shall include both Branch Officers and Delegates to Branch Council.
- J. Unless otherwise expressly indicated reference in these rules to a Federal Councillor shall include both Federal Officers and Delegates to Federal Council.
- K. Unless otherwise expressly indicated reference in these rules to a Federal Executive Member shall include both Federal Officers and Branch Representatives on Federal Executive.

3 - CONSTITUTION - DELETED

[see chapter A rule 2]

4 - DESCRIPTION OF INDUSTRY - DELETED

[see chapter A rule 3]

5 - OBJECTS - DELETED

[see chapter A rule 4]

5A - DELETED

[see chapter A rule 12]

6 - APPLICATIONS FOR MEMBERSHIP

- A. A candidate for membership shall make application to the Branch (or Branches) established in the State in which the candidate's employer is located and such application shall be made in the manner and subject to the conditions if any required by the rules of the Branch to which it is made. Subject to the provisions of the Act and Chapter A of these rules the Branch Council or Branch Executive shall have power to accept or reject any such application.

Where there is not a Branch established in the State where the candidate's employer is located a candidate for membership shall make application to Federal Council or Federal Executive which subject to the provisions of the Act shall have power to accept or reject any such application.

- B. Candidates shall supply such information as to their name address classification salary and eligibility for membership as may be required by the Branch or by Federal Council or Federal Executive and if requested shall complete and sign an application form for the Group's records.
- C. Branches shall observe such directions as to the use of application forms and the compiling and maintaining of a full and accurate register of the membership of each Branch as Federal Council or Federal Executive may from time to time direct.

6A - ADMISSION TO MEMBERSHIP - MEMBERS OF ASSOCIATED BODIES

- D. No error omission or want of form in connection with any person's application for or admission to membership shall in itself invalidate membership and every person shall be deemed to be a member who has been acknowledged to be a member by the Group or by a Branch and who has previously made application for membership or otherwise acknowledged his membership provided that Federal Executive may remove from the register the name of any person who has gained admission as the result of any irregularity provided further that any person so dealt with shall have a right of appeal to Federal Council.
- E. A Branch may refer an application for membership to the Federal Executive for decision. Where an application for membership has not been dealt with or accepted within three months from the date the application was received or where an application is rejected the applicant may appeal to the Federal Executive. Where such an application has not been dealt with or accepted within three months from the date the application was received by Federal Executive the applicant may appeal to Federal Council whose decision shall be final.
- F. Every member shall be deemed to be attached to a Branch of the Group established in the State where the member's employer is located. Where there is not a Branch established in the State where the member's employer is located the member may be attached to such Branch as the Federal Council or Federal Executive may direct.
- G. Except as hereinafter provided a member shall be deemed to have become a member of the Union as from:
- (i) The date of admission as provided in the rules of the Branch to which the member is admitted in accordance with sub-rule (A) and sub-rule (F) of this rule; or
 - (ii) The date of receipt of the member's application at the office of the Branch to which the member is admitted in accordance with sub-rule (A) and (F) of this rule in cases where no provision as to date of admission is made in the rules of such Branch - whichever is applicable, provided in cases where an application is dealt with under sub rule (E) of this rule an applicant shall not be or be deemed to be a member of the Union unless a decision favourable to the application is made by Federal Executive or Federal Council provided further that if a decision favourable to the application is made the applicant's membership shall commence from the date the application was first received.
- H. The Branch to which an application for membership is made shall inform each applicant for membership, in writing, of:
- (i) the financial obligations arising from membership; and
 - (ii) the circumstances, and the manner, in which a member may resign from the organisation.

6A - ADMISSION TO MEMBERSHIP - MEMBERS OF ASSOCIATED BODIES

- A. Notwithstanding any other provision of these rules or of those of any Branch, members of Associated Bodies (who are eligible for membership of the Union under Part 2 of Chapter A) may become members of the Union in accordance with the provisions of this rule.
- B. An application for membership of the Union in respect of a member of an Associated Body may be made on behalf of such person by the Associated Body of which he/she is a member in accordance with the rules of that body.
- C. No error omission or want of form in connection with any such person's application for or admission to membership shall invalidate membership under the rule.

6B - ADMISSION TO MEMBERSHIP - DIRECT APPLICATION FROM QUEENSLAND

- D. A person shall be taken to have become a member under this rule on the date when the application made on behalf of that person by the relevant Associated Body is received by the relevant Branch, provided that no person shall become a member of the Union pursuant to this rule unless he/she has been notified by letter by the relevant Branch and Associated Body:
- (a) that on the date specified in the letter being not less than six weeks after the date of the letter an application in accordance with this rule will be made on his/her behalf to the Union; and
 - (b) of the financial obligations arising from membership and the circumstances and the manner in which a member may resign from memberships; and
 - (c) that if a written objection to the Secretary of the relevant Associated Body is received within one month of the letter then no application on his/her behalf will be made.
- E. In respect of members of the Union who are also members of an Associated Body, the membership records of the Associated Body, at least in so far as those records show the names, addresses and dates of admission to membership of persons who are also members of the Union, shall be kept at the relevant Branch Office, and shall be deemed to be part of the register of members required to be kept for the purposes of rule 9.
- F. (a) References to an Associated Body in this rule shall (unless the context otherwise precludes it) include reference to any officer or employee of an Associated Body.
- (b) An Associated Body shall be taken to be the agent of its members for all purposes under this rule.

6B - ADMISSION TO MEMBERSHIP - DIRECT APPLICATION FROM QUEENSLAND

- A. Notwithstanding any other provisions of these rules or those of any Branch or of any Associated Body, a candidate eligible for membership in the State of Queensland may make an application to the Federal Council or the Federal Executive, which, subject to the provisions of the Act, shall have the power to accept or reject such applications.
- B. Candidates shall supply such information as required by Federal Council or Federal Executive including, but not limited to, their name, address, employer, classification and salary, and shall sign an application form for the Group's records.
- C. The Federal Secretary shall maintain a membership register of all members enrolled in this manner.
- D. The membership fees, including any subscriptions and levies, for a member enrolled in this manner shall be set by Federal Council in accordance with Rule 26.
- E. Members enrolled in this manner will be attached to a Branch by the Federal Council or Federal Executive in accordance with Rule 6.
- F. For the avoidance of any doubt, the power of the Federal Council or the Federal Executive to enrol members from the State of Queensland under this rule is additional to any capacity to enrol members contained within these rules, the rules of any Branch or the rules of any Associated Body.

8 - TERMINATION OF MEMBERSHIP

7 - HONORARY LIFE MEMBERSHIP

- A. Any member may upon the recommendation of a Branch and by resolution of the Federal Council, be elected an honorary life member of the Group for valuable and distinguished service.
- B. An honorary life member shall thereafter be entitled to all the rights and privileges of membership but shall be exempted from payment of subscriptions, levies and all other fees or charges so long as he or she remains eligible for membership.
- C. An honorary life member who ceases to be eligible for membership in the Union shall thereupon cease to be entitled to the rights conferred upon financial members by Rule 10, Rights of Members, by Rule 54, Election of Branch Officers and Council and Branch Delegates to Federal Council, and by Rule 57, Conduct of Elections.

8 - TERMINATION OF MEMBERSHIP

- A. A member may resign from membership of the Union by notice in writing if:
 - (i) the member ceases to be eligible to become a member of the Union; or
 - (ii) the member gives notice not less than two weeks before the resignation is to take effect.
- B. Notice in writing of resignation shall be addressed to the Branch Secretary of the Branch of which the member resigning is a member or of which he or she has been attached and shall be delivered to that officer.
- C. A notice of resignation from membership of the Union takes effect:
 - (a) where the member ceases to be eligible to become a member of the Union :
 - (i) on the day on which the notice is received by the Union; or
 - (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;whichever is later; or
 - (b) in any other case:
 - (i) at the end of two weeks after the notice is received by the Union; or
 - (ii) on the day specified in the notice;whichever is the later.
- D. Any dues payable but not paid by a former member of the Union, in relation to a period before the member's resignation or termination of membership under a Branch rule made pursuant to rule 8H from the Union took effect, may be sued for or recovered in the name of the Union, in a court of competent jurisdiction, as a debt due to the Union.
- E. A notice delivered to the person mentioned in sub-rule B hereof shall be taken to have been received by the Union when it was delivered.

11 - BRANCHES

- F. A notice of resignation that has been received by the Union is not invalidated by reason of the fact that it has not been addressed and delivered in accordance with the last preceding sub rule.
- G. A resignation of membership of the Union is valid notwithstanding that 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.
- H. The rules of a Branch may provide that the membership of an unfinancial member may be terminated under specified circumstances, and may specify conditions under which persons whose membership has been so terminated may again be entitled to be admitted as a member of the Union.
- I. Any person whose membership has been terminated under a Branch rule as provided for under Rule 8H shall be regarded as having had his or her membership of the Union terminated, and shall only be entitled to again be admitted as a member of the Union upon satisfying the conditions (if any) as specified in the relevant Branch rule.
- J. Where the membership of a member has been terminated under a Branch rule as provided for under Rule 8H, the date of effect of the termination shall be the date as provided for under the applicable Branch rule.

9 - REGISTER OF MEMBERS

The Group and each Branch of the Group shall keep a register of its members showing the name and postal address of each member and shall keep all other records as are required to be maintained by organisations under the Act in the manner and at the place prescribed by the Act and Regulations.

10 - RIGHTS OF MEMBERS

- A. Every financial member of the Group shall have the right (subject to reasonable provisions in the rules of a Branch with respect to enrolment) to vote at any ballot taken for the purpose of submitting a matter to a vote of the members of the Group or of a Branch section or other division of the Group in which he or she is included.
- B. An unfinancial member shall not hold any office of the Group or attend or vote at any meeting, or nominate, be nominated or vote in any election or ballot.

GOVERNMENT OF BRANCHES

11 - BRANCHES

- A. The Federal Council may form a Branch or Branches in any State of the Commonwealth of Australia. Each Branch shall at all times conform to the rules of the Union. Each Branch shall have full autonomy in matters affecting members of the Branch only and matters concerning the participation of the Branch in any State industrial conciliation and arbitration system. The Group shall not participate in the systems of conciliation and arbitration or of wages boards or like systems established under the law of a State except when and to the extent that the participation of the Group is requested by the Branch of the Group established in that State and where the Group so participates the Secretary of the Branch of the Group established in that State shall be the person to sue or to be sued under the law of the State in respect of any acts or omissions arising from that participation.

12 - CONSTITUTION OF BRANCH COUNCIL

- B. If a rule of a Branch is inconsistent with any rule of the Union the latter shall prevail and the former shall to the extent of the inconsistency be void.
- C. Each Branch shall subject to the Act have power to constitute reform or dissolve sub-branches, section and local committees and to determine or vary their powers and duties. Members of any such sub-branch section or local committee shall at all times be governed by the rules of the Group and the Branch.
- D. Notwithstanding sub-rule (A) of this rule, if at any time the Federal Council or Federal Executive is of opinion that the rules of a Branch do not comply with the requirements of the Act Federal Council or Federal Executive may call on the Branch to bring its rules into conformity with the Act within a specified time. If at the end of the time specified the rules of the Branch have not been so altered Federal Council or Federal Executive may make such alterations to the rules of the Branch as will in its opinion bring them into conformity with the Act.
- E. No branch shall affiliate with, send delegates to, or be represented in any other manner on any national or international organisation body or meeting or any Branch chapter or section thereof by whatever name called without the prior consent of Federal Council or Federal Executive.
- F. No Branch or Sub-Branch shall affiliate with a political party unless;
 - (a) prior consent of the Federal Council has been given; and
 - (b) prior approval to the specific proposal for affiliation has been given by majority vote in a postal ballot of all financial members of the Branch or sub-Branch.

12 - CONSTITUTION OF BRANCH COUNCIL

- A. Each Branch Council shall consist of the Branch Officers and Delegates to the Branch Council.
- B. The rules of a Branch may specify the number of Delegates to the Branch Council. If they do not do so there shall be a Branch Representation Quota. In this case the rules of a Branch may specify a number which shall be the Branch Representation Quota, but if they do not do so the Branch Representation Quota shall be 500.
- C. The rules of a Branch may provide that the financial members of the Branch constitute a single electorate for the purpose of electing the Delegates to the Branch Council. In this case there shall be a number of positions of Delegate reserved for members who work in Higher Education, and for members who work in Health.

If the rules of the Branch specify the number of Delegates to the Branch Council then each of the numbers of reserved positions shall be calculated by multiplying twice the number of financial members in the class concerned by the specified number of Delegates to the Branch Council and dividing the result by three times the number of financial members in the Branch.

If there is a Branch Representation Quota then each of the three numbers of reserved positions shall be calculated by dividing twice the number of financial members in the class concerned by three times the Branch Representation Quota.

In any of the above calculations any fractional remainder shall be disregarded. If the result of the calculation is zero then the number of reserved positions shall be one.

12 - CONSTITUTION OF BRANCH COUNCIL

If in any election the number of members nominated from any of the classes for which a position is reserved is less than its number of reserved positions then for the purposes of that election the number of reserved positions shall be equal to the number of members nominated from the class.

- D. The rules of a Branch may provide that the financial members of the Branch shall constitute three or more electorates for the purpose of electing the Delegates to the Branch Council and every financial member shall be included in one electorate (but not more than one).

In this case the rules of a Branch may define, or provide the means of defining, the electorates, provided that:

- (i) there shall be one or more electorates exclusively consisting of financial members who work in Higher Education and all financial members who work in Higher Education shall be included in those electorates, and
- (ii) there shall be one or more electorates exclusively consisting of financial members who work in Health and all financial members who work in Health shall be included in those electorates, and
- (iii) there shall be one or more electorates exclusively consisting of financial members who work in neither Higher Education nor Health (and all financial members who work in neither Higher Education nor Health) shall be included in those electorates, and unless it is necessary in order to comply with paragraphs (i), (ii) or (iii) an electorate shall not be established with less than the minimum size, the rules of the Branch shall provide a means of reviewing or redefining electorates if they fall below the minimum size.

If the rules of the Branch specify the number of Delegates to the Branch Council the minimum size shall be the number obtained by dividing the financial membership of the Branch by twice the specified number of delegates to the Branch Council, disregarding any fractional remainder.

If there is a Branch Representation Quota the minimum size shall be half that Quota, disregarding any fractional remainder.

- E. If the rules of a Branch do not make provision for the election of Delegates to the Branch Council in accordance with either subrule C or subrule D of this Rule (except for the WAPOU Branch for as long as it does not contain members employed in either Higher Education or Health) then there shall be three electorates for the purpose of electing the Delegates to the Branch Council and every financial member shall be included in one electorate (but not more than one):

- . one consisting of the financial members who work in Higher Education;
- . one consisting of the financial members who work in Health;
- . one consisting of financial members who work in neither Higher Education or Health.

12 - CONSTITUTION OF BRANCH COUNCIL

- F. If there is more than one electorate in a Branch for the purpose of electing the Delegates to the Branch Council and the Rules of the Branch specify the number of Delegates to the Branch Council then the number of Delegates to be elected from each electorate shall be calculated by multiplying the number of financial members in the electorate by the number of Delegates to the Branch Council and dividing the result by the number of financial members in the Branch. Any fractional remainder shall be at first disregarded, but if any positions of delegate remain to be allocated they shall be allocated to electorates in order of the size of the fractional remainders, beginning with the largest. If the result of this calculation for any electorate is zero then the number of Delegates to be elected by that electorate shall be one, even if this results in the specified number of Delegates to the Branch Council being exceeded.
- G. If there is a Branch Representation Quota then the number of Delegates to be elected by each electorate shall be one per quota, or uncompleted part of a quota, of financial members in the electorate.
- H. In this rule a reference to "financial members" is a reference to financial members as at 31st December in the year preceding an election.

A Branch Secretary may as soon as practicable after the 31st December in each year but no later than the 28th February of the next year provide to a meeting of the Branch Council a report on membership as at the 31st December of that year showing the number of financial members in the Branch in each electorate and in each class of members relevant to determining any matter under this rule. If such report is provided it shall be conclusive that the number of financial members and their disposition is as stated therein. Notwithstanding anything in this rule to the contrary, the reference to "financial members" in sub-Rule "G" of this Rule in relation to any election conducted in 1992 by the Tasmanian Branch of the Group is a reference to financial members as at 1 May 1992.

The disposition of financial members into a class of members relevant to determining any matter under this rule shall be determined by the Branch Secretary by reference to the membership and subscription records held by the Branch or Associated Body as the case may be. The membership and subscription records are deemed to be conclusive as to the disposition of financial members. Where a member may be in more than one class of members relevant to determining any matter under this rule the Branch Secretary shall determine the disposition of the member.

Any report provided under this subrule shall be forwarded by the Branch Secretary to the Federal Secretary forthwith.

- I. Where a special sub-branch exists in a Branch and the rules of the Branch provide for the election of Delegates to Branch Council from the members of the special sub-branch, then sub-rules B to G inclusive shall apply to the election of Delegates to Branch Council by financial members who are not members of the special sub-branch and in those sub-rules all references to members shall be taken to refer to members who are not members of the special sub-branch and all references to the Branch shall be taken to refer to that part of the Branch which is composed of members who are not members of the special sub-branch.

The election of Delegates to Branch Council from the members of the special sub-branch shall be by and from one electorate consisting of the financial members of the special sub-branch.

- J. At every meeting of Branch Council the quorum necessary for the transaction of the business of the Branch Council shall be a majority of those entitled to attend and vote thereat or such other number or proportion as the rules of the Branch may provide.

13 - POWERS OF BRANCH COUNCIL

- K. (i) The rules of a Branch may provide that a number of positions of Delegate to Branch Council shall be reserved for women and a number reserved for men in each electorate.
- (ii) Where the rules of a Branch provide that a number of positions shall be reserved for women and a number reserved for men in an electorate then each of the numbers of reserved positions shall be calculated by multiplying twice the number of financial members in the electorate who are women or men as the case may be, by the number of delegates to be elected from the electorate and dividing the result by three times the number of financial members in the electorate. Any fractional remainder shall be disregarded. If the result of either calculation is zero then there shall be no reserved positions for either women or men, provided that where the rules of a Branch provide that the financial members of a Branch constitute a single electorate (other than the financial members allocated to a sub-Branch of that Branch) and the result of that calculation is zero, then the number of reserved positions shall be one.
- (iii) Where a special Sub-branch exists in a Branch and the rules of the Branch provide for the election of Delegates to the Branch Council from the members of the special sub-branch then paragraph (i) of this sub-rule shall apply to electorates which do not include members of this special Sub-branch. The rules of the Branch may also make provisions for reserved positions for electorates which do not consist of members of the special Sub-branch.

13 - POWERS OF BRANCH COUNCIL

The affairs of each Branch shall subject to these rules be managed by a Branch Council which shall have power to control and manage the business and affairs of the Group in the State in which the Branch as it is established under rule 11A, subject always to these rules and to any lawful direction of Federal Council or Federal Executive and without limiting the generality of this power shall have power to:

- (i) Notwithstanding anything else contained in Chapter A, B or C of the rules of the Union other than rule 11B of Chapter C, make amend and rescind rules for the regulation and government of the Branch;
- (ii) (a) Enrol in the Group any person whose employer is located in the State in which the Branch is established, who is qualified for membership of the Group, and who is qualified for membership of the Branch in the terms of the Federal Council decision establishing the Branch;
- (b) refuse admission to any person in accordance with the provisions of the Act.
- (iii) Fix and from time to time vary the entrance fees and Branch union subscriptions payable by candidates for membership and members of the Group attached to the Branch provided that at no time shall Branch union subscriptions be less than the national union subscriptions or capitation dues;
- (iv) Impose levies on members attached to the Branch;
- (v) Remit entrance fees, subscriptions, levies fixed or imposed under this Rule;
- (vi) Disburse or authorise the disbursement of moneys from the Branch Fund for any purpose within the objects of the Union;

13 - POWERS OF BRANCH COUNCIL

- (vii) Appoint or remove a Branch Returning Officer qualified to act in accordance with the Act to conduct any election for which a Returning Officer is required in connection with any Branch office in the Group;
- (viii) Appoint or remove a Branch Auditor qualified to act in accordance with the Act for any purpose for which an auditor is required in connection with the Branch accounts of the Group;
- (ix) Fix and from time to time vary the salaries and allowances or honorariums payable to Branch officers and to confer on named officers or the holders of any named offices authority to employ retain and terminate the employment of such research clerical and other staff as shall be specified in a resolution of Branch Council conferring such authority on such terms as Branch Council or, if so decided by Branch Council, as such Branch officers shall see fit;
- (x) Subject to Rule 59 - Rights of Officers, dismiss from office any person elected to an office within the Branch who has been found guilty in accordance with the rules of the Group of misappropriation of the funds of the Union a substantial breach of the rules of the Union, gross misbehaviour or gross neglect of duty or who has ceased according to the rules of the Group to be eligible to hold the office provided that any such person shall have a right of appeal to the Federal Council;
- (xi) Authorise the taking of any action under the Workplace Relations Act 1996 (the Act) which is seen to be necessary to advance the interests of members of the Branch, provided that such actions have application only to members of the Branch. Such actions include, but are not limited to the following:
 - (a) The notification of an alleged industrial dispute under section 99 of the Act,
 - (b) The making of an agreement proposed to be certified under Part VIB of the Act, and the making of an application for the certification of such an agreement,
 - (c) The making of an application for the extension, the variation of or the termination of an agreement certified under Part VIB of the Act,
 - (d) The notification under section 170M(3) of the Act that the organisation wants to be bound by an agreement proposed to be certified under section 170LK of the Act,
 - (e) The initiation of a bargaining period under section 170MI of the Act,
 - (f) The making of an application for the suspension or the termination of a bargaining period under section 170MW of the Act,
 - (g) The giving of notice of intention to take protected action as required under section 170MO of the Act, and
 - (h) The giving of notice to the Industrial Registrar that proposed protected industrial action has been duly authorised as required by section 170MR of the Act.
- (xii) Do all things necessary or convenient to the exercise of the foregoing powers.

13A - SPSF GROUP - BRANCH RULES

- A. The Rules of Branches of the SPSF Group as at the date of amalgamation shall be the Rules as set out in Attachment 3 of the Scheme of Amalgamation (D No. 20010 of 1993). Notwithstanding anything else contained in Chapter A, B or C of the rules of the Union other than rule 11B of Chapter C, these Branch Rules may be amended or rescinded in accordance with the power of a Branch Council under Rule 13(i).

14 - MEETINGS OF BRANCH COUNCIL

- A. Branch Council shall meet at least quarterly and at such other times as Branch Council or Branch Executive shall deem necessary and shall be convened by notice signed by the Branch President or failing him the Branch Vice-President or failing him the Branch Secretary.
- B. The Branch President and Branch Secretary acting together shall have power to convene special meetings of Branch Council and to determine when where and for what purpose such meeting shall take place. At least seven (7) clear days notice of any such meeting shall be given to each member of Branch Council.

15 - BUSINESS OF BRANCH COUNCIL

- A. Branch Council other than when meeting as a special meeting called for a specific purpose shall unless otherwise determined by Branch Council proceed to business in the following order -
1. Minutes of previous Branch Council Meeting
Minutes of special meeting of Branch Council
 2. Roll Call
 3. Branch Secretary's report
 4. Accounts
 5. Industrial report
 6. Motions on notice
 7. General Business
 8. Date and venue of next Branch Council Meeting
- B. Any item other than an addition to or amendment or rescission of any Branch rule may be placed on the agenda of any meeting of Branch Council by Branch Council, Branch Executive, Branch Officers or any Branch Councillor.

The Branch Secretary shall give each member of Branch Council not less than fourteen (14) days written notice of any such item of which he has received at least thirty (30) days notice and these items shall be treated as motions on notice.

- C. If the Branch Executive desires Branch Council to consider any addition to or amendment or rescission of any Branch rule notice shall be given to the Branch Secretary at least thirty (30) days prior to the meeting of Branch Council at which the rule is to be considered specifying the new rule amendment or rescission sought and each member of Branch Council shall be given fourteen (14) days written notice by the Branch Secretary by prepaid registered post that such new rule amendment or rescission is to be considered by Branch Council.

20 - BRANCH OFFICERS

- D. Twenty per cent of the financial membership of the Branch may by signing requisition or requisitions in common form in that behalf require that a postal ballot of all financial members of the Branch be held on any question set out in the requisition. Upon receipt of a requisition or requisitions in common form from not less than twenty per cent of the then financial membership of the Branch the Branch Secretary shall at once request the Branch Returning Officer to hold a postal ballot of all financial members of the Branch. The Ballot shall be held so as to conclude within four weeks of the date of the Branch Secretary's request. The result of the ballot shall, subject to these rules, bind all members of the Branch.

16 - CONSTITUTION OF BRANCH EXECUTIVE

- A. The Branch Executive shall consist of the Branch Officers.
- B. At every meeting of the Branch Executive the quorum necessary for the transaction of the business of the Branch Executive shall be a majority of those entitled to attend and vote thereat or such other number or proportion as the rules of the Branch may provide.

17 - POWERS OF BRANCH EXECUTIVE

Between meetings of Branch Council the management of the Branch shall be vested in a Branch Executive which shall be the committee of management of the Branch and pending the first meeting of Branch Council shall have all such powers except the power to make amend or rescind rules or any power expressly reserved to itself by decision of Branch Council.

18 - MEETINGS OF BRANCH EXECUTIVE

Branch Executive shall meet at least quarterly between meetings of Branch Council and whenever required by the Branch President after consultation with the Branch Secretary.

19 - BUSINESS OF BRANCH EXECUTIVE

The business of a meeting of the Branch Executive shall be such items as are submitted for the consideration of the Branch Executive to the Branch Secretary at least twenty-four (24) hours prior to the meeting of Branch Executive.

20 - BRANCH OFFICERS

The Branch Officers shall be:

- the Branch President
- the Branch Vice President (or Vice Presidents if the rules of the Branch so provide)
- the Branch Secretary
- the Branch Assistant Secretary (or Assistant Secretaries if the rules of the Branch so provide)
- the Branch Treasurer (if the rules of the branch so provide)
- One or more Executive Councillors (if the rules of the Branch so provide)

Where the rules of a Branch provide for one or more Executive Councillors, the rules of the Branch may provide that one or more Executive Councillors represent a particular class or group of members.

21 - DUTIES OF BRANCH PRESIDENT

- A. The Branch President shall:
- (i) Preside at all meetings of Branch Council and Branch Executive and sign the minutes thereof;
 - (ii) In consultation with the Branch Secretary determine the date time and place of meetings of Branch Council and Branch Executive whenever such date time and place has not been determined by Branch Council or Branch Executive;
 - (iii) Exercise a deliberative vote only if he or she so desires at all meetings of Branch Council and Branch Executive;
 - (iv) Ensure as far as possible that the rules of the Branch are performed and observed by officers and members of the Branch;
 - (v) Request and receive an explanation from any officer or member of the Branch in any case where the Branch President believes that the rules of the Branch have not been performed or observed and report thereon to Branch Executive and Branch Council;
 - (vi) Generally act to safeguard the reputation, unity, autonomy and property of the Branch.
- B. The Branch President shall be an ex officio member of any committee of the Branch.

22 - DUTIES OF BRANCH VICE-PRESIDENT

The Branch Vice-President shall exercise all of the rights and perform all of the duties of the Branch President in the absence of the Branch President or whenever the Branch President requests or Branch Council or Branch Executive instructs him so to do.

23 - DUTIES OF THE BRANCH SECRETARY

- A. The Branch Secretary shall:
- (i) Attend all meetings of Branch Council and Branch Executive and any committee of the Branch;
 - (ii) Prepare and place before the Branch President and circulate in accordance with these rules an accurate agenda of the business to be transacted at each such meeting;
 - (iii) Keep accurate minutes of the business transacted at each such meeting and circulate such minutes in draft where required by these rules and present a true copy of the minutes in each case to the subsequent meeting of the same body;
 - (iv) Receive reply to file and report upon all correspondence requiring attention;
 - (v) Receive and receipt enter up and bank forthwith to the credit of the Branch Fund all moneys proper to be paid thereto;

24A - BRANCH ASSOCIATES

- (vi) Prepare and sign cheques drawn upon the Branch Fund in payment of accounts proper to be paid and ensure that each such cheque is countersigned by another Branch Officer and is in all respects in order;
 - (vii) Keep proper books of account of the Branch and see to the preparation of an annual balance sheet and statement of receipts and payments and income and expenditure disclosing the true financial position of the Branch and submit same together with all books and vouchers or records required for audit to the Branch Auditor within twenty-eight (28) days of the end of the period to which it relates and present an annual balance sheet and statement of receipts and payments and income and expenditure together with the Branch Auditor's report thereon to the next ensuing meeting of the Branch Council or as Branch Council or Branch Executive may direct;
 - (viii) Inform the Branch President of any matter affecting or likely to affect the Branch and report thereon to Branch Council and Branch Executive;
 - (ix) Ensure that all matters required to be attended to by Branches of organisations of employees registered under the Act are attended to within the times and in the mode prescribed in the Act and the Regulations;
 - (x) Sign any process or document proper to be signed on behalf of the Branch by an officer thereof and to appear or to authorise another to appear before any Court, Commission or Industrial Tribunal before which the Branch should be represented;
 - (xi) Diligently and carefully carry out all the instructions of Branch Council and Branch Executive and report to Branch Council and Branch Executive thereon and see to the prompt circulation of all agendas notices and minutes by these rules required to be circulated and generally pursue by all lawful means the objects of the Union.
- B. The Branch Secretary shall be an ex officio member of any Committee of the Branch.

24 - DUTIES OF BRANCH ASSISTANT SECRETARY

In addition to such duties as may be required of a Branch Assistant Secretary by the rules of a Branch the Branch Assistant Secretary shall assist the Branch Secretary to perform all of the duties of the Branch Secretary and in the absence of the Branch Secretary or whenever the Branch Secretary requests or Branch Council or Branch Executive instructs him to do so shall perform the duties of the Branch Secretary or such of those duties as may be specified in each request or instruction.

24A - BRANCH ASSOCIATES

- A. A Branch Council shall have power to make provision for the enrolment as Associates of the Branch of persons who are not eligible for membership of the Union but who are:
- (i) retired persons who prior to retirement were members of the Union; or
 - (ii) widows or widowers of persons who prior to retirement or death were members of the Union or Associates of the Branch; or
 - (iii) trainee or cadet officers; or

25 - CONSTITUTION OF THE FEDERAL COUNCIL

- (iv) students attending any recognised university or other tertiary institution and engaged in a course of study which would, upon its successful completion, render the student suitable for employment in any of the professions, callings or avocations followed by members of the Association;
 - (v) a person eligible for Associate membership in an Associated body;
 - (vi) such other persons as provided by the Branch Rules.
- B. A Branch Council shall have power to:
- (i) fix and collect enrolment fees and subscriptions for Associates of the Branch;
 - (ii) determine the conditions under which a person shall cease to be an Associate of the Branch;
 - (iii) organise groups and committees of Associates, and provide administrative and financial support for their activities;
 - (iv) provide for the participation of Associates in Provident or welfare Funds or other activities of or supported by the Branch;
 - (v) provide for the participation in activities of Associates (including groups or committees) of financial members of the Union who are also persons of one of the kinds described in Rule 24A, paragraphs (i) to (v).
- C. Enrolment as an Associate of a Branch shall not entitle a person to any of the rights of membership.

GOVERNMENT OF THE GROUP

25 - CONSTITUTION OF THE FEDERAL COUNCIL

- A. The Federal Council shall consist of the Federal Officers and the following number of delegates elected from each Branch of the SPSF Group:

New South Wales Branch	11 delegates
Victorian Branch	5 delegates
South Australian Branch	5 delegates
Western Australian Branch	5 delegates
Tasmanian Branch	4 delegates
Queensland Branch	8 delegates
WAPOU Branch	1 delegate

One delegate from the New South Wales Branch shall be elected by and from the members of the Branch Council who are members of the New South Wales Special Sub-Branch.

25 - CONSTITUTION OF THE FEDERAL COUNCIL

All other delegates shall be elected by and from the members of the Branch Council, excluding members of the Branch Council who are members of a special Sub-Branch, and in each Branch (except for WAPOU Branch) there shall be one position of Delegate reserved for members who work in Higher Education, one for members who work in Health and one for members who work in neither Higher Education nor Health. If in any election no member is nominated from any of the three classes then for the purposes of that election there shall be no reserved positions for that class.

- B. Delegates from respective Branches and Special Sub-Branches shall be entitled to exercise votes only in accordance with the provisions of this rule.
- (i) The total number of votes to be exercised between them by delegates from each Branch and Special Sub-Branch will be established each year, on the basis that delegates from each Branch and Special Sub-Branch will be entitled to exercise between them one vote for each one thousand financial members [or any part thereof] belonging to the Branch and Special Sub-Branch as at 30 June in that year;
 - (ii) Where there is a Special Sub-Branch delegates from the Branch and the Special Sub-Branch will each be entitled to exercise the total number of votes derived by using the formula in the preceding paragraph treating the Branch and the Special Sub-Branch as separate entities, and without double counting;
 - (iii) In this rule "financial members" means those persons who are at 30 June in the relevant year:
 - (a) SPSF Group members duly admitted to membership in accordance with the rules of this Chapter; and
 - (b) financial members in terms of Rule 44 of Chapter C and who are financial members of the relevant Associated Body or of the relevant Branch, [provided that a person shall not be deemed to be a financial member if that person is more than three months in arrears in financial obligations to the Associated Body or Branch]; and,
 - (c) members in respect of whom the Branch or Special Sub-Branch has remitted national union subscriptions, capitation dues and levies to the Federal Secretary due under Rule 45 of Chapter C.
 - (iv) Subject to [viii] below any change in the total number of votes to be exercised by the delegates from a Branch or Special Sub-Branch will take effect from 1 October each year.
 - (v) Each Branch and Special Sub-Branch Secretary shall provide by 1 September each year an audited certification of the number of financial members of the Branch or Special Sub-Branch as at 30 June in that year.
 - (vi) The Federal Secretary shall notify all Branch and Special Sub-Branch Secretaries by 30 September each year of the total number of votes to be exercised by delegates from each Branch and Special Sub-Branch from 1 October in that year.
 - (vii) Where by 1 October the Federal Secretary has not received an audited certificate from the Branch or Special Sub-Branch in accordance with [v] the delegates from that Branch or Special Sub-Branch shall not be entitled to exercise any vote on Federal Council until such time as such a certificate is provided to the Federal Secretary.

- (viii) If a new Branch or Special Sub-Branch is created the delegates from that Branch or Special Sub-Branch shall be entitled to exercise between them a total number of votes determined in accordance with this sub-rule, with this entitlement to commence upon the day after the Branch has completed actions to comply with any relevant provisions in the rules relating to the establishment of the Branch or Special Sub-Branch and the appointment or election of delegates to Federal Council.
 - (ix) At any Ordinary or Special Meeting of Federal Council held after 1 July 1994 the delegates from a Branch or Special Sub-Branch will not be entitled to exercise any voting entitlement unless it has complied with Rule 45 of Chapter C, or unless Federal Council determines, in respect of that meeting, that the delegates may exercise those voting rights. For the purposes of voting on such a proposed determination by Federal Council the delegates from such a Branch or Special Sub-Branch shall not vote, provided that such Branch or Special Sub-Branch shall be heard before the vote is put.
- C. Each Branch Delegate shall be entitled to exercise a number of votes calculated by dividing the total number of votes for the Branch by the number of delegates, disregarding any fractional remainder.
- Where the Delegates from a Branch are entitled to exercise a greater number of votes upon any question for decision by Federal Council than the number of votes assigned to those Delegates by this calculation, the additional votes shall be exercisable as follows:
- (i) Where there has been a ballot conducted for the election of persons to the office of Delegate to Federal Council the additional votes shall be allocated one at a time to the Delegates in order of their election, beginning with the first elected;
 - (ii) Where insufficient nominations were received to require the conducting of a ballot for the office of Delegate to Federal Council the additional votes shall be exercised by Delegates to Federal Council from the Branch appointed for that purpose by the Branch Council, each such Delegate being allocated one additional vote.
- D. Each Sub-branch Delegate shall be entitled to exercise the votes provided for the Sub-branch. The Sub-branch Delegates shall not be regarded as Branch Delegates and the Sub-branch votes shall not be regarded as Branch votes for the purpose of allocating votes under sub-rule C.
- E. A Federal Officer who is not re-elected as a delegate to Federal Council shall be a non voting member of the Council and shall have all the rights and duties of a member of the Council except that they shall have no right to vote, other than at meetings of Federal Executive which occur prior to the expiration of their terms, or nominate or be nominated as a Federal Officer or member of the Federal Executive.
- F. The Federal Secretary, if not a delegate to Federal Council, shall be a voting member of the Council exercising one vote and shall have all the rights and duties of a member of the Council.
- G. At every meeting of Federal Council a quorum shall be a number of delegates entitled to between them cast a majority of the votes entitled to be cast thereat.

25B - DIRECTION OF BRANCH DELEGATES TO FEDERAL COUNCIL

- (a) For the purposes of these rules it shall be a Councillor's duty thereunder to vote or exercise the functions of a Branch Delegate to Federal Council in a manner which is consistent with a direction by the Branch which the Federal Councillor represents.

26 - POWERS OF FEDERAL COUNCIL

The affairs of the Group shall be governed by a Federal Council which subject to sub-Rule 29(E) shall be the supreme governing authority of the Group and shall have power to do all things necessary to achieve the objects of the Union and shall exercise all of the powers therein conferred upon registered organisations of employees and without limiting the generality thereof shall have power to:

- (i) Recommend to the National Officers Committee, or agree to or reject NOC recommendations on the making amendment and rescission of any of the rules of the Group or of the Union;
- (ii) Fix and from time to time vary the amount and mode of payment of capitation dues payable by Branches to the Federal Fund and in lieu thereof and from such time as it shall determine fix and from time to time vary the amount and mode of payment of national union subscriptions payable by candidates for membership and members of the Group;
- (iii) Impose per capita levies on Branches and fix from time to time the amount of other contributions from Branches for the purpose of maintaining the Federal Fund;
- (iv) Disburse or authorise the disbursement of moneys from the Federal Fund for any purpose within the objects of the Union;
- (iv) (a) Approve the affiliation of a Branch or sub-Branch to a political party, subject to Rule 11 sub rule F;
- (iv) (b) Approve the affiliation of the Group to a political party, provided that the specific proposal for affiliation has been given prior approval by a majority vote in a postal ballot of all financial members of the Group.
- (v) Appoint or remove a Federal Returning Officer, not being the holder of any other office in and not being an employee of the Union or of a Branch section or division of the Group;
- (vi) Appoint or remove an auditor qualified to act in accordance with the Act to conduct the yearly or other more frequent audit of the Federal Fund;
- (vii) Fix and from time to time vary the salaries and allowances or honorariums payable to the Federal officers of the Group and to employ, retain and terminate the employment of staff of the Group; provided that the authority under this paragraph in relation to staff may be conferred in whole or in part on named officers or the holders of any named offices upon such terms and conditions, if any, as Federal Council may include in the resolution conferring such authority;
- (viii) Resolve industrial disputes and where necessary and appropriate submit industrial disputes to conciliation and arbitration in accordance with the policy and procedures of the Act;

28 - MEETINGS OF FEDERAL COUNCIL

- (ix) Seek and obtain or oppose the making of Awards by the Australian Conciliation and Arbitration Commission or by any successor to that body by whatever name called as the interests of members may from time to time require;
- (x) Subject to Rule 59 - Rights of Officers, dismiss from office any person elected to an office within the Group who has been found guilty in accordance with the rules of the Group of misappropriation of the funds of the Union, a substantial breach of the rules of the Union, gross misbehaviour or gross neglect of duty or who has ceased according to the rules of the Group to be eligible to hold office;
- (xi) Rescind or vary any resolution made by the Federal Executive pursuant to Rule 31;
- (xii) Do all things necessary or convenient to the exercise of the foregoing powers.

27 - OFFICIAL JOURNAL

- A. The Federal Council shall have power to publish an official journal and/or to join with any Associated Body or Bodies for the purpose of publishing separately or jointly an official journal.
- B. Any such official journal shall be circulated to members of the Group.

28 - MEETINGS OF FEDERAL COUNCIL

- A. DELETED
- B. Ordinary meetings of the Federal Council will be held commencing in the year 2006, and then every two years thereafter.
- C. Ordinary meetings of the Federal Council shall be held at such times and places as the Federal Council determines, provided that the Federal Council may by resolution authorise the Federal Executive or the Federal President and Federal Secretary acting together to determine any such matters.
- D. Federal Executive by resolution in that behalf or the Federal President and Federal Secretary acting together shall have power to convene special meetings of Federal Council and to determine when, where and for what purpose such meetings shall be held.
- E. Upon a request in writing made to the Federal Secretary by or on behalf of either
 - (i) three (3) branches, or
 - (ii) any combination of branches whose delegates to Federal Council are entitled to between them cast a majority of the votes entitled to be cast at a meeting of the Federal Council

pursuant to a resolution of the Branch Council of each such branch requesting that a special meeting of Federal Council be convened to transact the business set forth in the said resolution the Federal Secretary shall convene a special meeting of Federal Council for a date not later than sixty (60) days from the date on which the request to the Federal Secretary was made.

29 - BUSINESS OF FEDERAL COUNCIL

- F. At least thirty (30) days' notice of any meeting of Federal Council specifying the business of the meeting shall be given to each member of Federal Council and to each Branch Secretary by prepaid registered post addressed to the respective addresses appearing from the records of the Group.

29 - BUSINESS OF FEDERAL COUNCIL

- A. On the assembling of the Federal Council the Federal President or in their absence, the most Senior Federal Vice-President present, or in the absence of the President and all the Federal Vice-Presidents, a delegate to Federal Council elected by the persons assembled for the meeting shall preside as Chair.
- B. Federal Council shall unless otherwise determined by Federal Council proceed to business in the following order:
- (i) Hours of sitting and agenda
 - (ii) Roll call
 - (iii) Minutes of the previous Federal Council Meeting Minutes of Special Federal Council Meeting (if any)
 - (iv) Appointment of a Returning Officer
 - (v) Correspondence
 - (vi) Balance Sheet, Statement of Income and Expenditure and Auditor's Report
 - (vii) Federal Secretary's Report
 - (viii) Accounts and appointment or reappointment of Auditors
 - (ix) Branch Reports
 - (x) Rules - new rules, amendments and rescissions
 - (xi) Agenda items
 - (xii) General business
 - (xiii) Declaration of any result proceeding from insufficient nominations received to require a ballot for any of the offices of Federal President or Federal Vice-President, statement by Returning Officer regarding arrangements for a ballot in respect of these Federal offices for which more than one nomination has been received, and declaration of any ballot for any of these offices. (Any of the items under this paragraph may be dealt with by the Council as soon as the Returning Officer brings them to the notice of the Chair.)
 - (xiv) Consideration of order of seniority of Federal Vice Presidents
 - (xv) Venue of next ordinary two-yearly Federal Council Meeting.
- C. Any item not requiring the exercise of Federal Council's powers under Rule 26 (i), 26 (ii) or 26(iii) may be placed on the agenda of any meeting of Federal Council by Federal Council, Federal Executive, any Federal Officer or any Branch.

Notice shall be given to the Federal Secretary at least forty-two (42) days prior to the date of such meeting. Each Branch Secretary and member of Federal Council shall be given at least thirty (30) days written notice by the Federal Secretary of such agenda items. A member of Federal Council who wishes Federal Council to consider any such matter not on the agenda for that matter may have such matter considered if the Council resolves to consider the matter by a resolution carried by an absolute majority of the votes exercisable at the meeting.

30 - CONSTITUTION OF FEDERAL EXECUTIVE

The requirements of this sub-rule as to notice shall be directory and not mandatory and the accidental or inadvertent omission to give the full notice required to any person entitled to same shall not of itself invalidate the proceedings of the Federal Council meeting at which such matter is considered.

- D. Any items requiring the exercise of Federal Council's powers under Rule 26(i), 26(ii) or 26(iii) may be placed on the agenda of any meeting of Federal Council by Federal Council, Federal Executive, any Federal Officer or any Branch. Notice shall be given to the Federal Secretary not less than forty-two (42) days prior to the date of such meeting specifying the new rule, amendment or rescission sought or the resolution proposed.

Each Branch Secretary and member of Federal Council, shall be given not less than thirty (30) days' written notice by the Federal Secretary that such proposed new rule, amendment or other resolution is to be considered.

Nothing in this sub-rule shall prevent Federal Council dealing with a proposal to place such an item on the agenda of a further meeting of Federal Council or Federal Executive to submit such an item to a ballot under Rule 42 or to refer such an item for consideration by Branches.

Nothing in this rule shall be read as precluding the addition to or amendment or rescission of any rule by postal ballot of the members of Federal Council conducted in accordance with the requirements of Rule 42, Postal Ballot of Federal Executive and Federal Council.

- E. Any three branches or any combination of branches which include between them a majority of financial members, as defined in sub-rule 25(B)(iii) may within ninety days (90) days of the rising of Federal Council or Federal Executive by resolution of their respective Branch Councils request a postal ballot of the whole of the financial membership of the Group on any decision of Federal Council or Federal Executive specified in that request and such decision shall thereupon be submitted to a postal ballot of the whole of the financial membership. Any such ballot shall be conducted by the Federal Returning Officer at the expense of all the Branches each of which shall forward to the Federal Returning Officer within two weeks of being so requested by the Federal

Returning Officer a cheque for so much of the total expenses of the postal ballot as estimated by the Returning Officer as the financial members of each Branch bears to the total financial membership of the Group. The result of any such ballot shall be binding on the Federal Council or Federal Executive.

- F. Within thirty (30) days of the rising of the Federal Council or Federal Executive, the Federal Secretary shall forward to each Branch and to each member of Federal Council a copy of the draft minutes of that meeting.

30 - CONSTITUTION OF FEDERAL EXECUTIVE

- A. The Federal Executive shall consist of the Federal Officers and one Branch Representative from each Branch.
- B. At every meeting of the Federal Executive a quorum shall be a number of Federal Executive members entitled to between them cast a majority of the votes entitled to be cast thereat.

32 – MEETINGS OF FEDERAL EXECUTIVES

- C. The voting members present from each Branch i.e. the President or Vice-President and the Branch representative, shall be entitled to exercise between them the same number of votes as the Branch Delegates to Federal Council are entitled to exercise at a Federal Council Meeting. If the majority of voting members of the Executive from a Branch who are present do not agree on the manner in which the votes shall be exercised the votes shall be divided equally between them and for the purposes of this sub-rule fractions of a vote may be cast.
- D. The Federal Secretary, if not a voting member from a Branch, shall be a non-voting member of the Executive and shall have all the rights and duties of a member of the Executive except that they shall have no right to vote.

31 - POWERS OF FEDERAL EXECUTIVE

- A. Between meetings of Federal Council the management of the Group shall be vested in a Federal Executive which shall be the Committee of Management of the Group. It shall have between such Federal Council meetings, subject to any direction or resolution of Federal Council, all the powers of the Federal Council with the exception of the powers conferred on Federal Council by paragraphs (i), (ii), (iii) and (iv)A of rule 26 or to hear appeals or to any power expressly reserved to itself by decision of Federal Council provided that any resolution of Federal Executive may be rescinded or varied by the Federal Council but shall unless or until such rescission or variation have full force and effect.
- B. Any member of the Federal Executive may request at a meeting that any question before the Executive be referred to Federal Council. Any such request shall be put to a vote in which the voting members present from each Branch shall be entitled to exercise between them the same number of votes as the Branch Delegates to Federal Council are entitled to exercise at a Federal Council Meeting. If the majority of voting members of the Executive from a Branch who are present do not agree on the manner in which the vote shall be exercised the vote shall be divided equally between them and for the purposes of this sub-rule fractions of a vote may be cast.

Where a question is referred to Federal Council as a result of such a vote the Federal Executive shall not seek to determine the question, and any purported determination of the question by the Executive shall be void and without effect.

- C. At any meeting of Federal Executive the delegates from a Branch will not be entitled to exercise any voting entitlement unless the Branch has complied with Rule 45 of Chapter C, or unless Federal Executive determines, in respect of that meeting, that they may exercise those voting rights. For the purposes of voting on such a proposed determination by Federal Executive the delegates from such a Branch shall not vote, provided that such Branch shall be heard before the vote is put.

32 – MEETINGS OF FEDERAL EXECUTIVES

- A. Federal Executive meetings may be conducted by personal attendance at a meeting location or by electronic means such as teleconferencing or videoconferencing or by a combination of personal attendance or electronic means.

A person who participates in a meeting by any of those means shall be taken to be present at the meeting.
- B. Federal Executive shall meet at least twice in each calender year.

33 - BUSINESS OF FEDERAL EXECUTIVE

- C Special meetings of Federal Executive shall be convened:
- (i) Whenever Federal Executive so determines.
 - (ii) Whenever two or more Branches by resolutions of their respective Branch Councils so request and such special meeting shall be held within twenty one (21) days of the receipt of the Federal Secretary of notice of the said resolution.
 - (iii) By decision of the Federal Secretary after consultation with the Federal President provided that such meeting shall not be held before a meeting which has been previously requested in accordance with paragraph (ii) of this Sub-Rule.
- D The Federal Executive or the Federal Secretary after consultation with the Federal President shall have power to determine the means, date, time and where relevant, place of meetings of the Federal Executive.
- E At least twenty-four hours notice shall be given to each member of the Federal Executive of a meeting of the Executive.

The requirements of this Sub-Rule as to notice are directory and not mandatory and the accidental omission to give any notice required by this Rule shall not itself invalidate any subsequent resolution of Federal Executive.

33 - BUSINESS OF FEDERAL EXECUTIVE

- A. On the assembling of the Federal Executive, the Federal President or in their absence, the most senior Federal Vice-President present, or in the absence of the President and all the Federal Vice-Presidents a member of the Executive elected by the persons assembled for the meeting shall preside as Chair.
- B. Unless it decides otherwise Federal Executive at its biannual meetings shall proceed to business in the following order:
- (i) Hours of sitting and agenda
 - (ii) Roll Call
 - (iii) Minutes of the previous Federal Executive Meeting Minutes of Special Federal Executive Meetings (if any)
 - (iv) Federal Secretary's Report
 - (v) Correspondence
 - (vi) Financial Report and Accounts
 - (vii) Agenda items of which not less than fourteen (14) days notice has been given under Sub-Rule (C) of this rule.
 - (viii) General Business

35 - DUTIES OF FEDERAL PRESIDENT

- C Unless it decides otherwise Federal Executive at special meetings shall proceed to business in the following order:
- (i) Hours of sitting and agenda
 - (ii) Roll Call
 - (iii) Agenda items of which notice has been given in the notice of the meeting.
 - (iv) General Business
- D. Any item may be placed on the agenda of any meeting of Federal Executive by Federal Council, Federal Executive, Federal Officers or any Branch.
- E If possible, notification of the agenda of a meeting of the Federal Executive shall be given to each member thereof by letter or other means, such as facsimile transmission or electronic mail, but failure to provide such agenda will not invalidate or otherwise affect such vote or meeting of the Federal Executive.
- The Federal Secretary shall give each Branch Secretary and member of Federal Executive not less than fourteen (14) days written notice of any such item of which he has received at least twenty one (21) days notice.
- The requirements of this Sub-Rule as to notice are directory and not mandatory and the accidental omission to give any notice required by this rule shall not itself invalidate any subsequent resolution of Federal Executive.
- F. Nothing in this sub-rule shall prevent Federal Executive dealing with a proposal to place an item on the agenda of a further meeting of Federal Council or Federal Executive or to submit such an item to a ballot under Rule 42 or to refer such an item for consideration by Branches.

34 - FEDERAL OFFICERS

- A. The Federal Officers shall be the Federal President, Federal Vice- President, and the Federal Secretary.
- B. There shall be one Federal Vice-President from each Branch one of whom shall be the Federal President.

35 - DUTIES OF FEDERAL PRESIDENT

- A. The Federal President shall:
- (i) Preside at and conduct all meetings of Federal Council and Federal Executive and sign the minutes thereof;
 - (ii) In consultation with the Federal Secretary convene meetings of Federal Council and Federal Executive;
 - (iii) Exercise a deliberative vote only if he or she so desires at all meetings of Federal Council and Federal Executive;
 - (iv) Ensure as far as possible that the rules of the Union are performed and observed by officers and members of the Group;

35 - DUTIES OF FEDERAL PRESIDENT

- (v) Request and receive an explanation from any officer or member of the Group in any case where the Federal President believes that the rules of the Union may not have been performed or observed and report thereon to Federal Executive and Federal Council;
 - (vi) Generally act to safeguard the reputation, unity and property of the Union.
- B. The Federal President shall be an ex officio member of any Federal committee of the Group.

36. FINANCIAL DISCLOSURE AND TRAINING OBLIGATIONS FOR THE GROUP AND ITS BRANCHES

36.1 Preamble

- (a) This rule is included to comply with the financial disclosure, policy development and training requirements of Division 3A of the *Fair Work (Registered Organisations) Act 2009*
- (b) For the absence of doubt this rule provides for disclosure by the Group to its members and by each Branch to its members, for the financial training of the Group officers and Branch officers, and for policy development by the Group and each of its Branches.

36.2 Interpretation of this Rule

For the purposes of this rule:

- (a) A **board** means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation, association or other like body including a Board of Directors.
- (b) **CPSU** means CPSU, The Community and Public Sector Union.
- (c) **disclosure period** means the financial year unless a shorter period is specified.
- (d) **declared person or body** means:
 - (i) an officer of the Group or Branch has disclosed a material personal interest under **Rules 36.5(c) and 36.6(c)**;
 - (ii) the interest relates to, or is in, the person or body; and
 - (iii) the officer has not notified the Group or Branch that the officer no longer has the interest.
- (e) **financial duties** means duties that relate to the financial management of the Group or a Branch of the Group.
- (f) **General Manager** means the General Manager of the Fair Work Commission.
- (g) **Group** means CPSU, The Community and Public Sector Union SPSF Group.
- (h) **non-cash benefit** means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (i) **peak council** has the same meaning as defined by section 12 of the *Fair Work Act 2009*.
- (j) **office** has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*.
- (k) **officer** has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*.

- (l) **related party** has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.
- (m) **relative** means, in relation to a person:
- (i) parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person; or
 - (ii) the spouse of the first mentioned person.
- (n) **relevant remuneration** in relation to an officer of the Group or Branch for a disclosure period is the sum of the following:
- (i) any remuneration disclosed to the Group or Branch by the officer under **Rules 36.5(a) and 36.6(a)** during the disclosure period;
 - (ii) any remuneration paid during the disclosure period, to the officer by the CPSU, the Group or a Branch
- (o) **relevant non-cash benefits** means, in relation to an officer of the Group or Branch for a disclosure period the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer's duties as an officer, by the Group or Branch or by a related party of the Group or Branch.
- (p) **remuneration:**
- (i) includes pay, wages, salary, fees, allowances, leave benefits or other entitlements; but
 - (ii) does not include a non-cash benefit; and
 - (iii) does not include the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out his or her duties.

36.3 Group and Branch Officer Training Obligations

- (a) Each officer of the Group and each officer of any Branch whose duties include financial duties that relate to the financial management of the Group or the Branch must undertake training that covers each of the officer's financial duties.
- (b) The financial training must be approved by the General Manager under section 154C of the *Fair Work (Registered Organisations) Act 2009* and must be completed within 6 months from the date at which the officer of the Group or the Branch began to hold that office.

36.4 Method of Disclosure for the Purposes of this Rule

(a) **Annual disclosures for higher paid officers and related party payments**

The disclosures by the Group required by **Rule 36.5(b), 36.5(d) and 36.5(e)** and by Branches by **Rules 36.6(b), 36.6(d) and 36.6(e)** will be:

- (i) made in respect of each financial year;
- (ii) published within six months after the end of the financial year using one or more of the following methods;
 - Publication in the print journal (if any) of the Group, the Branch or the Associated Body;
 - Publication in the Branch or Group annual report;
 - Publication on the Group, Branch or Associated Body website;

- Publication in the general purpose financial report provided under s253 of the *Fair Work (Registered Organisations) Act 2009*;
- Publication in the operating report provided under s254 of the *Fair Work (Registered Organisations) Act 2009*;
- Such other means prescribed in the rules of a Branch provided the method of disclosure is available to all members of the Branch;

(b) More frequent disclosures of Board remuneration, non cash benefits, and material personal benefits and payments from related parties.

(i) The disclosures of Group officers required by **Rules 36.5(a)** and **36.5(c)** and of the Branch officers by **Rules 36.6(a)** and **36.6(c)** of this Rule will be made:

- In the case of the Federal President to the Federal Executive of the Group;
- In the case of a Federal Secretary to the Federal President of the Group;
- In the case of a Group officer to the Federal President of the Group;
- In the case of the Branch President to Branch Executive of the Branch
- In the case of a Branch Secretary to the Branch President of the Group;
- In the case of a Branch officer to the Branch President of the Branch;

(ii) The method of disclosure will be in writing as soon as practicable after the remuneration is paid or the material personal interest acquired. Also the disclosure must be made before the end of the financial quarter in which the remuneration is paid or the material personal interest acquired,. For the purposes of **Rule 36.4(b)** disclosures the end of each financial quarter shall be 30 September, 31 December, 31 March and 30 June.

36.5 Group and Group Officer Disclosure

(a) Relevant remuneration and non-cash benefits

Each officer of the Group shall disclose to the Group in the manner prescribed in **Rule 36.4(b)** any remuneration paid to the officer:

(i) because the officer is a member of a board, if:

- the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
- the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;

(ii) by any related party of the Group in connection with the performance of the officers' duties as an officer.

(b) Five highest paid Group officers

The Group shall disclose to members of the Group, in the manner prescribed in **Rule 36.4(a)**, the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits, or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) Material personal interests

Each officer of the Group shall disclose to the Group any material personal interest in a matter that relates to the affairs of the Group that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

(d) The Group shall disclose to members of the Group any interests disclosed to the Group pursuant to **Rule 36.5(c)** in a manner prescribed by **Rule 36.4(b)**

(e) Payments to related parties and declared persons

The Group shall disclose to members of the Group the following by a manner prescribed by **Rule 36.4(a)**:

- (i) each payment made by the Group, during the disclosure period:
 - to a related party of the Group; or
 - to a declared person or body of the Group; or
- (ii) the total of the payments made by the Group, during the disclosure period:
 - to each related party of the Group; or
 - to each declared person or body of the Group

(f) Rule 36.5(e) does not apply to:

- (i) a payment made to a related party if the payment consists of amounts deducted by the organisation from remuneration payable to officers or employees of the organisation.
- (ii) payments to officers, who are related parties, that are remuneration;
- (iii) payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking duties of an officer

36.6 Branch and Branch Officer Disclosure

(a) Remuneration paid to the officer

Each officer of a Branch shall disclose to the Branch any remuneration paid to the officer:

- (i) because the officer is a member of a board, if
 - the officer is a member of the board only because the officer is an officer of the CPSU, Group or Branch; or
 - the officer was nominated for the position as a member of the board by the CPSU, Group, Branch or a peak council;
- (ii) by any related party of the Branch in connection with the performance of the officer's duties as an officer.

(b) Five highest paid Branch officer disclosure

The Branch shall disclose to members of the Branch in a manner prescribed in **Rule 36.4(a)** the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period, and for those officers:

- (i) the actual amount of each of the officer's relevant remuneration for the disclosure period; and
- (ii) either the value of each of the officer's relevant non-cash benefits or the form of each of the officer's relevant non-cash benefits, for the disclosure period.

(c) Material personal interests

Each officer of a Branch shall disclose to the Branch any material personal interest in a matter that relates to the affairs of a Branch that:

- (i) the officer has or acquires; or
- (ii) a relative of the officer has or acquires.

(d) The Branch shall disclose to members of the Branch any interests disclosed to the Branch pursuant to **Rule 36.6(c)** in a manner prescribed by **Rule 36.4(a)**

(e) Payments to related parties and declared persons

Each Branch shall disclose to members of the Branch in the manner prescribed by **Rule 36.4(a)** either:

- (i) each payment made by the Branch, during the disclosure period:
 - to a related party of the Branch; or
 - to a declared person or body of the Branch;
- (ii) the total of the payments made by the Branch, during the disclosure period:
 - to each related party of the Branch; or
 - to each declared person or body of the Branch.

(f) Rule 36.6(e) does not apply to:

- (i) A payment made to a related party if the payment consists of amounts deducted by the Branch from remuneration payable to officers or employees of the Branch.
- (ii) Payments to officers, who are related parties, that are remuneration
- (iii) Payments to officers, who are related parties, that are reimbursement of expenses reasonably incurred while undertaking the duties of an officer

36.7 Group and Branch Expenditure Policies and Procedures

The Group and each Branch shall develop and implement policies and procedures relating to the expenditure of the Group and each Branch respectively.

37 - DUTIES OF FEDERAL VICE-PRESIDENTS

- A. A Federal Vice-President shall exercise all of the rights and perform all of the duties of the Federal President in the absence or absence from duty as the case may require of the Federal President and any more senior Federal Vice-President or whenever the Federal President requests or the Federal Council or Federal Executive instructs him to do so.
- B. Deleted.

38 - DUTIES OF THE FEDERAL SECRETARY

- A. Subject to these rules the Federal Secretary shall:
 - (i) Attend all meetings of Federal Council and Federal Executive and any committee of the Group;
 - (ii) Prepare and place before the Federal President and circulate in accordance with these rules an accurate agenda of the business to be transacted at each such meeting;

- (iii) Keep accurate minutes of the business transacted at each such meeting and circulate such minutes in draft where required by these rules and present a true copy of the minutes in each case to the subsequent meeting of the same body;
- (iv) Receive, reply to, file and report upon all correspondence requiring attention;
- (v) Receive and receipt enter up and bank forthwith to the credit of the Federal Fund of the Group all moneys paid to the Group;
- (vi) Prepare and sign cheques drawn upon the Federal Fund of the Group in payment of accounts proper to be paid and ensure that each such cheque is countersigned as required by the rules and is in all respects in order;
- (vii) Keep proper books of account of the Group and see to the preparation of an annual balance sheet and statement of receipts and payments and income and expenditure disclosing the true financial position of the Group and submit same together with all books and vouchers or records required for audit to the Federal Auditor within twenty-eight (28) days of the end of the period to which it relates and present an annual balance sheet and statement of receipts and payments and income and expenditure together with the Federal Auditor's report thereon to the next ensuing meeting of Federal Council or as Federal Council or Federal Executive may direct;

41 - PROXY VOTING ON FEDERAL COUNCIL AND FEDERAL EXECUTIVE

- (viii) Inform the Federal President of any matters affecting or likely to affect the Group or any branch and report thereon to Federal Executive and Federal Council;
 - (ix) Ensure that all matters required to be attended to by organisations of employees registered under the Act are attended to within the times and in the mode prescribed in the Act and the Regulations;
 - (x) Sign any process or document proper to be signed on behalf of the Group by an officer thereof and to appear or to authorise another to appear before any Court Commission or Industrial Tribunal before which the Group should be represented;
 - (xi) Sue or accept service of process on behalf of and in the name of the Group;
 - (xii) Diligently and carefully carry out all the instructions of Federal Council and Federal Executive and report to Federal Council and Federal Executive thereon and see to the prompt circulation of all agendas notices and minutes by these rules required to be circulated and generally pursue by all lawful means the objects of the Union.
- B. Where the Federal Secretary delegates any power, authority, duty or function under these rules to any officer or employee the officer or employee shall report to the Federal Secretary whenever requested on the manner in which the delegation has been exercised.
- C. The Federal Secretary shall be an ex officio member of any Federal committee of the Group.
- D. In the absence from duty of the Federal Secretary any duty which must be carried out by the Federal Secretary, including the signing of any process or document proper to be signed on behalf of the Group by an officer thereof, may be performed by a Federal Officer authorised by the Federal Secretary or in the absence of any such authorisation by a Federal Officer authorised by the Federal Executive or in the absence of any such authorisation by a Federal Officer authorised by the Federal President.

In the absence from duty of the Federal Secretary any duties of the Federal Secretary which may be delegated to a person other than a Federal Officer or Branch Officer may be carried out by a person in accordance with any delegation of the Federal Secretary.

39 - DELETED

40 - DELETED

41 - PROXY VOTING ON FEDERAL COUNCIL AND FEDERAL EXECUTIVE

- A. A Branch delegate to Federal Council or Branch representative on Federal Executive who is unable to be present at the whole or any part of a meeting of Federal Council or Federal Executive shall by writing or telegram delivered to the Federal Secretary appoint another delegate from the Branch or a financial member of the Branch Council of the Branch such delegate or representative represents to act as their proxy. A person appointing a proxy shall notify his Branch Secretary of the fact that such an appointment has been made.

42 - POSTAL BALLOT OF FEDERAL COUNCIL

- B. Each Branch Council may if it so decides confine the members of the Branch Council eligible for appointment as a proxy pursuant to this rule to such of the financial members of Branch Council as each Branch Council may by resolution appoint and may further provide for the order in which such persons shall be eligible for appointment as a proxy if willing to act to ensure as far as possible that such proxy will be representative of the Branch.
- C. If no Branch delegate to Federal Council or financial member of Branch Council be found willing to act the Branch delegate or Branch representative or failing any appointment by such Branch delegate or Branch representative the Branch Council may appoint any financial member of the group (including another delegate or representative from the same or different Branch) to act as proxy for the Branch delegate or Branch representative unable to be present.
- D. A Federal Officer who is unable to be present at the whole or any part of a meeting of Federal Council or Federal Executive shall by writing or telegram delivered to the Federal Secretary appoint a financial member to act as their proxy.
- E. A proxy shall have all the powers of the person he represents, other than the right to participate in a ballot for Federal Officers pursuant to Rule 55, but in exercising a vote they shall act in accordance with any direction of the person they represent.
- F. An existing Federal Councillor or Federal Executive member who is appointed a proxy Federal Councillor or Federal Executive member shall be entitled to exercise all votes exercisable by the person they represent in addition to any vote or votes they are entitled to exercise on their own behalf. No person shall act as a proxy Federal Councillor or Federal Executive member for more than one person.

42 - POSTAL BALLOT OF FEDERAL COUNCIL

- A. Any decision which under these rules may be made by Federal Council in meeting assembled (including without limiting the generality of the foregoing the addition to or amendment or rescission of any Federal Rule or Rules by Federal Council) may be made by post in accordance with this rule and any decision so made shall be valid and effectual for all purposes.
- B. A postal ballot shall be held whenever so decided by Federal Council, Federal Executive, the Federal President or Federal Secretary or whenever requested of the Federal Secretary by any two Branches and shall be conducted by the Federal Secretary.
- C. For the purposes of this Rule, by post shall mean that each member of the Federal Council or the Federal Executive (as the case may be) shall be forwarded in writing and sent by post, facsimile, or other electronic means, courier or communication delivered by hand a copy of the question upon which that member's vote is required together with advice of the period in which the member is to record a vote being:
 - (i) If the question requires the exercise of Federal Council's powers under Rule 26(i), 26(ii) and 26(iii) not less than 30 days; and
 - (ii) In all other cases not less than 14 days.

42A - REGULARITY OF PROCEEDINGS

- D. In any postal ballot of Federal Council, Federal Councillors shall be entitled to exercise the same number of votes as they would be severally entitled to exercise upon questions for decision by Federal Council in meeting assembled. The persons entitled to vote shall be the persons holding office as voting members of the Federal Council at the time the question is forwarded and who are still holding such office at the time they cast their vote. If a person ceasing to be a Branch delegate to Federal Council after a ballot commences but before they cast a vote then their vote shall be reallocated to the remaining delegates to Federal Council from the Branch in accordance with the provisions of Rule 25 and those delegates may cast any additional votes to which they are then entitled.
- E. No decision by postal ballot shall be effective on any question unless within the time appointed by the Federal Secretary or Federal President in forwarding the question upon which the Federal Councillors' votes are required:
- (i) in the case of a postal ballot conducted as a result of a decision of Federal Council or Federal Executive no less than a majority of the total votes exercisable by Federal Councillors have been exercised thereon;
 - (ii) in any other case no less than 75 percent of the total votes exercisable by Federal Councillors have been exercised thereon.

A decision by postal ballot shall become effective before the time appointed is reached if and when it has received in its favour an absolute majority of the total votes exercisable and the provisions set out above have been met.

- F. This rule shall be construed liberally so as to facilitate its operation as a means of obtaining prompt decisions of Federal Council in matters in which it is or may be thought to be desirable to obtain decisions expeditiously and in matters in which a substantial degree of consensus is known or believed to exist among members of Federal Council.
- G. In any ballot of Federal Council held after 1 July 1995 the delegates from a Branch or Special Sub-Branch will not be entitled to exercise any voting entitlement unless it has complied with Rule 45 of Chapter C, or unless Federal Council determines in advance, in respect of that ballot, that the delegates may exercise those voting rights. For the purposes of voting on such a proposed determination by Federal Council the delegates from such a Branch or Special Sub-Branch shall not vote, provided that such Branch or Special Sub-Branch shall be heard before the vote is put.

42A - REGULARITY OF PROCEEDINGS

- A. Any body constituted under these rules may continue to function notwithstanding any vacancy thereon, provided the requisite quorum be present.
- B. No failure to give notice and no defect in any notice given calling any meeting of any body constituted under these rules shall invalidate the proceedings thereof unless such failure or defect results in the nonattendance of some member otherwise able and willing to attend.

Any such failure or defect may be waived by the member entitled to the notice before, during or after the meeting.

42B - INDUSTRY AND ADVISORY BODIES

- C. All communications of whatsoever kind which the Group may send to any member or office holder under these rules may be sent to such member or office holder at the last address notified by him or her to the Group. Except as elsewhere provided herein any such communication may be sent by post or telegraph, telex, facsimile transmission or other similar means and in such case shall be deemed to have been received by him or her in the ordinary course of post or telegraph, telex, facsimile transmission or other similar means as the case may be.
- D. No decision or proceeding of any body provided for under the rules shall be invalidated by the presence or participation of any person not entitled to be present or to participate if apart from such person the requisite quorum was present and the vote of such person did not determine the decision or the result of the proceeding and no objection to his or her presence or participation was taken at the time.

42B - INDUSTRY AND ADVISORY BODIES

- A. There shall be a Health Industry Body representing members who work in health. The Health Industry Body shall consist of the Health delegates to Federal Council from each Branch.
- B. There shall be a Higher Education Industry Body representing members who work in higher education. The Higher Education Industry Body shall consist of the Higher Education delegates to Federal Council from each Branch.
- C. Federal Council or Federal Executive may establish an Industry or Advisory Body for any class or group of members. For the purposes of this sub-rule an Industry or Advisory Body shall be constituted of at least one delegate from each of the Branches which has members in the specified class or group. Except in relation to Sub-Rules A and B of this Rule, the Branch delegates to an Industry or Advisory Body shall be determined from time to time by the Branch Council.

The Federal Secretary and the Federal President or their nominees shall be ex officio members of any Industry or Advisory Body.
- D. The activities of Industry and Advisory Body will conform to Union Rules and policy.
- E. An Industry or Advisory Body shall exercise such functions as may be delegated to it by the Federal Council or the Federal Executive in a minuted resolution concerning matters relating to the particular class or group of members for which the Body has been established.
- F. In addition to Sub-Rule E the Health and Higher Education Industry Bodies shall have an advisory role in relation to matters of policy and administration only affecting the particular interests of health and higher education members. The Health and Higher Education Industry Bodies shall have the right to present advice directly to the Federal Secretary, the Federal Executive and the Federal Council.
- G. The duties of Industry and Advisory Body Delegates are:-
 - (i) To represent their Branch on the Industry or Advisory Body.
 - (ii) To report to the Branch and the members which they represent the business and decisions of the Industry or Advisory Body meetings which they attend.

42C - ACTU DELEGATES

- H. An Industry or Advisory Body shall meet in person and/or by post, facsimile, telephone conference or other electronic means, when so requested by the Federal Council, Federal Executive or the Federal Secretary. In addition, the Health and Higher Education Industry Bodies shall have a right to meet quarterly if they so determine and so notify the Federal Secretary.

The Federal Secretary shall be responsible for convening meetings of Industry and Advisory Bodies.

Following each meeting, an Industry or Advisory Body shall submit a written report on decisions and recommendations made and action taken on any matter to the Federal Secretary for circulation to Federal Executive, Federal Council and Branch Secretaries.

- I. The Federal Executive shall provide such financial and other resources for the meetings and activities of each Industry or Advisory Body as it deems necessary and reasonable.
- J. Industry and Advisory Bodies shall appoint their own Chair and Secretary.
- K. In any vote taken by an Industry or Advisory Body, each Branch's delegates shall have a total vote equal to the number of financial members in the specified class or group in the Branch they represent as at 31 December in the year preceding.

42C - ACTU DELEGATES

- A. Providing they have remitted all monies due in accordance with Rule 45, each Branch shall be entitled to elect delegates to an ACTU Congress or Special Conference in accordance with the following formula:

$$\text{Number of Branch delegates} = \frac{a}{b} \times c$$

where:

- "a" = Number of Branch financial members as at 31 December in the year preceding Congress/Special Conference
- "b" = Total number of Group financial members as at 31 December in the same year as in "a".
- "c" = Number of delegates allocated to the Group by the ACTU less one position which shall be allocated to the Federal Secretary.
- B. Any fractional remainder shall be at first disregarded, but if any positions of delegate remain to be allocated they shall be allocated to Branches in order of the size of the fractional remainders, beginning with the largest.
- C. Branch ACTU delegates shall be determined by the Branch Councils and the names of such delegates shall be notified to the Federal Secretary.
- D. The Group's delegation will be bound by decisions of:
- (a) The Federal Council.

42D – DELEGATION OF FUNCTIONS

- (b) Meetings of delegates to the ACTU Congress/Special Conference in respect of matters before such Congress/Special Conference, provided that such decisions shall not bind the Group.
- E. Each Branch shall be entitled to forward to the Federal Secretary such items as they feel appropriate for submission to the ACTU Congress/Special Conference and subject always to these rules and Union policy, the Federal Secretary shall forward such items in accordance with the requirements of the ACTU.

42D – DELEGATION OF FUNCTIONS

- A An officer or body may delegate a function to a person or body or the holder of a particular office or position.

The delegation may be made either generally or as otherwise provided by the delegation.

The delegation may be exercised only in accordance with any condition to which the delegation is subject.

If the delegation is to the holder of a particular office or position it may be exercised by any person from time to time holding, occupying or exercising the functions of the office or position.

Where the exercise of the function by a person or body is dependent on the opinion, belief or state of mind of the person or body in relation to any matter and the function has been delegated that function may be exercised on the opinion, belief or state of mind of the delegate in relation to the matter.

A delegation does not prevent or limit the exercise of the function by the delegator.

A delegation may be revoked, wholly or partly, by the delegator.

A delegate may in the exercise of a delegated function exercise any other function which is incidental to the delegated function.

- B A delegate may sub-delegate a delegated function unless the delegation is subject to a condition prohibiting sub-delegation and this rule shall apply to a sub-delegation in the same way it applies to a delegation to a function.
- C The functions of the Federal Council under paragraphs (i), (ii), (iii) and (iv)A of Rule 26 may not be delegated.
- D
 - (i) If a function involves direct participation in the making of policy for the Union, Group or a Branch, or involves direct participation in the making, alteration, or rescission of the Rules of the Union, Group or a Branch, then it may only be delegated to a Federal or Branch Officer, or a collective body consisting of Federal or Branch Councillors.
 - (ii) If a function involves direct participation in the management of the affairs of the Union, Group, or a Branch, or involves direct participation in the enforcement of the Rules of the Union, Group or a Branch,

then it may only be delegated:

- (a) to a Federal or Branch Officer, or a collective body consisting of Federal or Branch Councillors; or
- (b) to another person subject to the proviso that it may only be exercised in accordance with directions given by a Federal or Branch Officer, or a collective body consisting of Federal or Branch Councillors for the purpose of implement existing policy of the Union, Group or a Branch, or decisions concerning the Union, Group or a Branch.

E In this Rule:

a reference to a function includes a reference to a power, authority and duty;

a reference to a function includes a reference to a function conferred by the Rules and to a function conferred by a resolution;

a reference to the exercise of a function includes in relation to a duty the performance of the duty.

ADMINISTRATION OF THE GROUP

43 - FEDERAL FUND

A. There shall be a fund to be known as the Federal Fund which shall be managed and controlled in accordance with rules relating to the Union as a whole -

The Federal Fund shall consist of -

- (i) Any real or personal property of which the committee of management of the Group by the rules or by any established practice not inconsistent with the rules has or in the absence of any limited term lease bailment or arrangement would have the right of custody control or management.
- (ii) Capitation fees paid by a Branch.
- (iii) The national union subscription paid by each member
- (iv) Levies paid by a Branch.
- (v) Any interest, rents dividends or other income derived from the investment or use of the Fund.
- (vi) Any superannuation or long service leave or other funds operated or controlled in accordance with rules relating to the Group as a whole for the benefit of its officers or employees.
- (vii) Any sick pay fund, accident pay fund, funeral fund, tool benefit fund or like fund operated in accordance with rules relating to the organisation as a whole for the benefit of its members.

- (viii) Any property acquired wholly or mainly by expenditure of the moneys of the Fund or derived from other assets of the Fund, and
 - (ix) The proceeds of any disposal of parts of the Fund.
- B. Federal Council or Federal Executive may by resolution from time to time authorise the disbursement of moneys standing to the credit of the Federal Fund for the achievement of the objects of the Union and for its administration.
- C. Except as provided in sub-rule E hereof, cheques and other instruments drawn against funds deposited to the credit of the Federal Fund with banks or other financial institutions shall be signed by the Federal Secretary together with one other person who is either a member of the Federal Executive or a member of Federal Council appointed by Federal Council or by the Federal Executive for the purpose of signing cheques and other such instruments.
- D. Whenever pursuant to its powers under Rule 26 (vii) of these rules the Group employs a Federal Executive Officer, that person shall be authorized to execute any instrument application or other document other than documents required by or provided for in the Act or Regulations. He may also sign cheques in the circumstances specified in sub rule E of this rule.
- E. For the purposes of the general administration of the Group including payment of salaries, honoraria, travelling expenses, payroll deductions, Federal and State Taxes, rates, rent, interest on loans, accounts for stationery, printing, hire of premises for meetings, legal costs and disbursements, transcript, telephone, telegraph, telex and postal services and expenses of like kind reasonably incidental to the general administration of the Group, the prior authority of Federal Council or Federal Executive shall not be necessary before such cheques are signed or accounts paid and cheques for payment in relation to such matters should be signed by:
 - (i) the Federal Secretary or in the absence of the Federal Secretary an officer or employee nominated by the Federal Secretary (which person shall perform the duties specified by Rule 38(A)(vi); and
 - (ii) any person who is either a member of the Federal Executive or a member of the Federal Council appointed by Federal Council or by the Federal Executive for the purpose of signing cheques and other such instruments.
- E. For the purposes of the general administration of the Group including payment of salaries, honoraria, travelling expenses, payroll deductions, Federal and State taxes, rates, rent, interest on loans, accounts for stationery, printing, hire of premises for meetings, legal costs and disbursements, transcript, telephone, telegraph, telex and postal services and expenses of like kind reasonably incidental to the general administration of the Group the prior authority of Federal Council or Federal Executive shall not be necessary before such cheques are signed or accounts paid and cheques for payment in relation to such matters shall be signed by:
 - (i) the Federal Secretary or in the absence of the Federal Secretary an officer or employee nominated by the Federal Secretary (which person shall perform the duties specified by Rule 38(A)(vi); and
 - (ii) any person who is either a member of the Federal Executive or a member of the Federal Council appointed by Federal Council or by the Federal Executive for the purpose of signing cheques and other such instruments.

43A STATEMENT OF ACCOUNTS

- F. Where under this rule the Federal Executive Officer is a signatory to a cheque then the duties specified by Rule 38A(vi) shall be performed by the Federal Executive Officer.

43A STATEMENT OF ACCOUNTS

- (a) The SPSF 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 Federal Council may determine that a concise report for the financial year be provided free of charge to each member.
- (c) Subject to sub-rule (d), the full report for a financial year will be presented to the Federal Council or the Federal Executive acting as Committee of Management.
- (d) At the conclusion of each financial year, where 5% of the members of the SPSF Group call for a general meeting to receive the full report, the full report will be presented to a general meeting. Such a general meeting shall be dealt with in accordance with this sub-rule.

The petition will state “We the undersigned SPSF Group members call for a general meeting of members to receive the full financial report for the last ending financial year”.

The petition will be addressed to the Federal Secretary, and must be signed and dated by each signatory, and must also include the membership number of each signatory.

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.

The general meeting will be held in Sydney. The Federal Secretary shall advise all members of the time and place by notice published on the SPSF Group website and State Branch bulletins.

There will be no quorum for the general meeting.

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 SPSF Group Federal Office, then:
- i. references in this rule to the Federal Council shall be taken to be references to the management committee of the respective Reporting Units;
 - ii. references in this rule to the Federal Secretary shall be taken to be references to the Secretary of the respective Reporting Units;
 - iii. references in this rule to members of the SPSF 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 43A) shall be applied to those Reporting Units.

44 - ENTRY FEES, SUBSCRIPTIONS, LEVIES AND OTHER FEES

- A. The entrance fees, subscriptions, levies and other fees payable by members of the Group shall be paid to the Secretary of the Branch to which the member belongs.
- B. The entrance fees, subscriptions, levies and other fees payable by members of the Group may be paid:
- (i) at the office of the Branch;
 - (ii) to a collector authorised by the Branch Secretary;
 - (iii) by an authority for deduction from salary and payment to the Branch Secretary;
 - (iv) by an authority for deduction from salary in accordance with an agreement between his employer and the Group or the officers of his Branch whereby the employer agrees to deduct subscriptions from the salary of candidates for membership or members and to pay the same into a bank account in the name of the Branch of the Group or to the Branch;
 - (v) by an authority for deduction from salary of an amount equivalent to or greater than the amount payable by such members as entrance fee, subscriptions, levies and other fees to the Group under these Rules in accordance with an agreement between the member's employer and an Associated Body whereby the employer agrees to deduct subscriptions from the salary of candidates for membership or members of an Associated Body and to pay the same into a bank account in the name of the Associated Body or to the Associated Body, where there is an agreement between the Group and the Associated Body providing for the payment by the Associated body to the Group from the moneys received in this way of the amount of the entrance fees and subscriptions payable by the members to the Group. Provided that as and from the date of the amalgamation between SPSF and PSU any such agreement with an Associated Body shall operate to give an authorising member financial status in the amalgamated Union only where the agreement requires payment in full by the Associated Body to the amalgamated union, the entrance fees and subscriptions payable under the Rules of the amalgamated body;
 - (vi) by an authority in accordance with an arrangement approved by the Group or the officers of his Branch providing for payments by instalments deducted from a bank, building society, credit union or similar account at monthly or more frequent intervals.
 - (vii) By an authority providing for payments by instalments (being for an amount equivalent to or greater than the amount payable by such members as entrance fees, subscriptions, levies and other fees to the Union under these rules) deducted from a bank, building society, credit union or similar account at monthly or more frequent intervals and paid into a bank account in the name of the Associated Body or to an Associated Body where there is an agreement between the Union and Associated Body providing for the payment by the Associated Body to the Union from the monies received in this way of the amount of the entrance fees and subscriptions payable by the members to the Union;
 - (viii) By payment to an Associated Body of an amount equivalent to or greater than the amount payable by such members as entrance fees, subscriptions, levies and other fees to the Union under these rules where there is an agreement between the Union and the Associated Body providing for the payment by the Associated Body to the Union from the monies received in this way of the amount of the entrance fees and subscriptions payable by the members to the Union.

45 - SUBSCRIPTIONS, CAPITATION DUES AND LEVIES

- C. Each Branch Secretary shall receive and deal with such moneys at all times in accordance with these rules.
- D. All such moneys shall be forthwith deposited by the Branch Secretary to the credit of an account in the name of the Branch of the Group maintained with a bank or a financial institution of a type which has been approved by Federal Council as being appropriate for the investment of the Group's funds.
- E. All subscriptions shall be paid in advance.

If an authority as provided for by this Rule is in effect for the deduction of a member's subscription from salary by arrangement with the appropriate employer then the member's subscription shall fall due by instalments in the first day of each pay period.

If a member has entered into an arrangement as provided for by this rule providing for payment of subscription by instalments deducted from a bank, building society, credit union or similar account, at monthly or more frequent intervals then the member's subscription shall fall due by instalments on the first day of each payment period.

In all other cases subscriptions shall fall due by quarterly instalments on the 1st January, 1st April, 1st July and 1st October.

Where an authority as provided for by this rule for deduction from salary or an arrangement for deduction from an account ceases for any reason to be effective then the balance, if any, of the subscription for the current quarter shall become due immediately.

- F. Levies shall be payable within one month of the imposition of the levy or such longer period as may be determined by the Council imposing the levy.
- G. A member whose payments of entrance fees, subscription, levies or fines are not more than three months in arrears shall be a financial member.
- H. Notwithstanding any other provisions of this rule or elsewhere within these Rules, the entrance fees, subscriptions, levies and other fees of a member from the State of Queensland who has applied directly for membership to the Federal Council or Federal Executive through the provisions of Rule 6B of Chapter C shall be paid directly to the Group.

45 - SUBSCRIPTIONS, CAPITATION DUES AND LEVIES

- A. Each Branch shall remit to the Federal Secretary national union subscriptions fixed by Federal Council and paid by members. Such remittance shall be made by the end of each month in respect of national union subscriptions paid in the preceding month.
- B. Each Branch shall remit to the Federal Secretary capitation dues fixed by Federal Council. Such remittance shall be made for the quarters ending on 30 September, 31 December, 31 March and 30 June by the end of October, January, April and July respectively.
- C. Any levy imposed by Federal Council or Federal Executive shall be expressed as an amount per member and shall be paid by the Branches within three months of the decision of Federal Council or Federal Executive being communicated to them.

48 - LOANS, GRANTS AND DONATIONS BY THE GROUP OR BY ANY BRANCH

- D. Federal Council may approve variations to the dates by which payments are to be made as required by Sub-Rules A, B and C for the purpose of giving effect to any terms of any legally binding agreement between the Union and an Associated Body in respect to the payment of capitation dues or national union subscriptions.

46 - BRANCH FUND

- A. Each Branch shall have a fund of the particular Branch which shall be known as the Branch Fund and which shall be managed and controlled in accordance with rules of that Branch.
- B. A Branch Fund shall consist of -
- (i) Any real or personal property of which the Branch of the Group by the rules or by any established practice not inconsistent with the rules, has, or in the absence of any limited term lease, bailment or arrangement, would have the right of custody, control or management;
 - (ii) The amounts of entrance fees, subscriptions, fines, levies and other fees received by a Branch, less so much of these amounts as is payable by the Branch to the Federal Fund;
 - (iii) Any interest rents or dividends derived from the investment or use of the Fund;
 - (iv) Any superannuation or long service leave fund operated or controlled by the Branch for the benefit of its officers or employees;
 - (v) Any sick pay fund, accident pay fund, funeral fund, tool benefit fund or like fund operated or controlled by the Branch for the benefit of its members;
 - (vi) Any property acquired wholly or mainly by expenditure of the moneys of the Fund or derived from other assets of the Fund; and
 - (vii) The proceeds of any disposal of parts of the Fund.
- C. Rules relating to a Branch Fund shall not be altered except with the consent of the Branch concerned.

47 - AUDIT OF FEDERAL AND BRANCH FUNDS

- A. The Federal Fund and each Branch Fund and any other account proper to be maintained by the Group or a Branch shall be audited at least yearly by a competent person.
- B. The Group and each Branch shall appoint bi-annually a competent person as its auditor and shall make provision for that auditor to have full and complete access to all its books and documents.
- C. For the purpose of this rule "competent person" means a person qualified to exercise the duties of Auditor in accordance with the requirements of the Act.

48 - LOANS, GRANTS AND DONATIONS BY THE GROUP OR BY ANY BRANCH

- A. A loan, grant or donation of an amount exceeding \$1,000 shall not be made by the Group or any Branch thereof unless the committee of management of the Group or of the Branch as the case may be -

53 - RETURNING OFFICER

- (i) has satisfied itself -
 - (a) that the making of the loan, grant or donation would be in accordance with the other rules of the Union or of the Branch as the case may be; 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.

49 - REGISTERED OFFICE

- A. The office of the Group shall be at such address as the Federal Council in accordance with these rules shall from time to time resolve.
- B. The office of each Branch of the Group shall be at such address as the Branch Council in accordance with these rules shall from time to time resolve.

50 - COMMON SEAL - DELETED

[See chapter A rule 26]

51 - MODE OF EXECUTION OF DOCUMENTS

Documents not required to be under seal of the Union may be executed on behalf of the Group by the Federal Secretary, or other Federal Officer, whose signature shall be attested by one other Federal Officer and any such documents so executed shall be and be deemed to be executed on behalf of the Group and with its authority.

52 - STANDING ORDERS

Federal Executive, Federal Council, Branch Executive and Branch Council shall respectively adopt such standing orders as will facilitate the business of each body and may vary or suspend standing orders at any time by resolution in that behalf.

ELECTIONS

53 - RETURNING OFFICER

- A. Every election to an office within the Group shall be conducted by a returning officer not being the holder of any other office in, and not being an employee of, the Union or of a Branch section or division of the Group.
- B. The Federal Returning Officer shall be appointed by and shall hold office at the pleasure of the Federal Council and shall be appointed from persons qualified to exercise the duties of Returning Officer in accordance with the requirements of the Act.
- C. Each Branch Returning Officer shall be appointed by and shall hold office at the pleasure of the Branch Council and shall be appointed from persons qualified to exercise the duties of Returning Officer in accordance with the requirements of the Act.

54A - ELECTION OF BRANCH OFFICERS AND DELEGATES TO BRANCH COUNCIL

- D. A casual vacancy in the office of returning officer may be filled in the case of the Federal Returning Officer by appointment by Federal Executive and in the case of Branch Returning Officer by appointment by Branch Executive where such appointment is necessary to avoid delay in the holding or in the completion of an election provided that any person so appointed shall not be the holder of any other office in and shall not be an employee of the Union or of a Branch section or division of the Group.
- E. If there is a vacancy in the office of Federal Returning Officer the duties of the Returning Officer may be carried out by a person appointed by the Federal Executive to carry out the duties of Returning Officer or in default of such appointment by a person appointed by the Federal Secretary to carry out such duties in either case being a person not being the holder of any other office in and not being an employee of the Union or of a Branch section or division of the Group.
- F. If there is a casual vacancy in the office of Branch Returning Officer the Federal Returning Officer may be asked by the Branch Secretary to conduct the ballot or failing him a person appointed by the Branch Executive to carry out the duties of Branch Returning Officer or in default of such appointment by a person appointed by the Federal Secretary to carry out such duties provided that no person so appointed shall be the holder of any other office in or be an employee of the Union or of a Branch section or division of the Group.

54A - ELECTION OF BRANCH OFFICERS AND DELEGATES TO BRANCH COUNCIL

- A. Each Branch shall elect a Branch Secretary four-yearly by secret postal ballot of the whole of the financial membership of the Branch. The persons eligible to accept nomination shall be:
 - (i) All financial members of the Branch;
 - (ii) General Secretary, Assistant General Secretary and the elected members of the Executive (by whatever name called) of an Associated Body established in the same State as the Branch in which the election is to be held;
 - (iii) Employees of the Union if the Branch rules so provide;
 - (iv) Employees of an Associated Body established in the same state as the Branch in which the election is to be held if the Branch rules so provide.
- B. Each Branch shall elect one or more Branch Assistant Secretaries four-yearly by secret postal ballot of the whole of the financial membership of the Branch. The persons eligible to accept nomination shall be:
 - (i) All financial members of the Branch; and
 - (ii) General Secretary, Assistant General Secretary and the elected members of the Executive (by whatever name called) of an Associated Body established in the same State as the Branch in which the election is to be held.
 - (iii) Employees of the Union if the Branch rules so provide; and
 - (iv) Employees of an Associated Body established in the same State as the Branch in which the election is to be held if the Branch rules so provide.
- C. Each Branch shall elect a Branch President, one or more Vice Presidents and if there are such Officers in the Branch a Branch Treasurer and one or more Executive Councillors.

54A - ELECTION OF BRANCH OFFICERS AND DELEGATES TO BRANCH COUNCIL

The rules of a Branch may provide that any of these offices shall be elected:

- (i) two yearly by secret ballot by and from the Branch Councillors, or
- (ii) if the Branch Council is elected four yearly, four yearly by secret ballot by and from the Branch Councillors, or
- (iii) four-yearly by secret postal ballot of the whole of the financial membership of the Branch.

In all other cases the election shall be two yearly by secret postal ballot for the whole of the financial membership of the Branch.

Where the election is by secret postal ballot of the whole of the financial membership of the Branch the persons eligible to accept nomination shall be:

- (i) all financial members of the Branch; and
- (ii) General Secretary; Assistant General Secretary and the elected members of the Executive (by whatever name called) of an Associated Body established in the same State as the Branch in which the election is to be held.

Where the Rules of a Branch provide for the election of one or more Executive Councillors to represent a particular class or group of members, the election of such Executive Councillor or Executive Councillors to represent a particular class or group of members shall be two or four yearly as provided by the Rules by secret postal ballot by and from one electorate, consisting of the financial members of the particular class or group of members.

Where the Rules of a Branch provide for the election of one or more Executive Councillors to represent a particular class or group of members, then Sub-Rule C shall apply to the election of other Executive Councillors, if any, by financial members who are not members of the particular class or group of members and in that Sub-Rule all references to members shall be taken to refer to members who are not members of the particular class or group of members.

D. Each Branch shall elect the Delegates to Branch Council by secret postal ballot of the whole of the financial membership of the Branch. The rules of a Branch may provide that the election shall be four yearly. In all other cases the election shall be two yearly. The persons eligible to accept nomination shall be:

- (i) All financial members of the Branch; and
- (ii) General Secretary, Assistant General Secretary and the elected members of the Executive (by whatever name called) of an Associated Body established in the same state as the Branch in which the election is to be held.

Where the Delegates to Branch Council are to be elected from two or more electorates then the only persons eligible to accept nominations for election as a Delegate elected by that electorate shall be financial members in that electorate or those persons mentioned in paragraph (ii) of this sub-rule who would meet the other requirements for inclusion in the electorate if they were financial members.

E. Each election under this rule shall be conducted so that the result is declared not earlier than the first of May and not later than the 30th June in each even-numbered year.

54B - ELECTION OF DELEGATES TO FEDERAL COUNCIL

- F. Nominations for elections under this rule shall when necessary be called by such means as will give reasonable notice to those persons eligible to accept nomination to any such office at least fourteen (14) days prior to the date on which nominations close. Publication by notice in a daily newspaper circulating in the State or States in which members reside shall be deemed to be reasonable notice. Nominations shall be called by the Branch Returning Officer who shall fix the date on which nominations close and the dates between which the ballot if any shall be conducted.
- G. Nominations shall be in writing and shall be signed by the person accepting nomination and two members of the Branch proposing them and specifying the office or offices for which they are being nominated.
- H. Where a special sub-branch exists in a Branch and the rules of the Branch provide for the election of a Branch Assistant Secretary from the special sub-branch, then sub-rules B and D to G inclusive shall apply to the election of other Assistant Secretaries by financial members who are not members of the special sub-branch and in those sub-rules all references to members shall be taken to refer to members who are not members of the special sub-branch and all references to the Branch shall be taken to refer to that part of the Branch which is composed of members who are not members of the special sub-branch.
- I. Where any office is to be elected by and from the delegates to Branch Council then Sub-rules E, F and G of this Rule shall not apply to that election. Sub-rules B to H inclusive of Rule 54B shall, mutatis mutandis, apply to that election.

54B - ELECTION OF DELEGATES TO FEDERAL COUNCIL

- A. Each Branch shall elect delegates to Federal Council two-yearly by secret ballot of the members of the Branch Council.

The persons eligible to accept nomination for election as delegate to Federal Council shall be the members of the Branch Council.
- B. Each election under this rule shall be conducted so that the result is declared not earlier than the 1st of June and not later than the 25th of August in each even-numbered year.
- C. Nominations for election of delegates to Federal Council shall be called by notification of all members of the Branch Council at least 14 days prior to the first meeting of the Branch Council after each two-yearly election of delegates to Branch Council. Nominations shall be called for by the Branch Returning Officer or a person appointed in accordance with Rule 53F of these rules.
- D. Nominations shall be in writing and shall be signed by the member of the Branch Council accepting nominations, and by two other members of Branch Council proposing the member and specifying that they are being nominated as a Delegate to Federal Council.
- E. Nominations shall close at 6pm on the first day of each Branch Council meeting at which an election is necessary. The Returning Officer shall advise Council at the opening of the Council meeting of the nominations received by him at that time. If the Returning Officer conducting the election finds nominations 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 person the opportunity of remedying the defect before the election, but if not practicable because of the absence from the Branch Council of a member of Branch Council who had nominated or purported to nominate the person (there being no other member of the Branch Council who is prepared to nominate the person), or for other good cause shown to the satisfaction of the Returning Officer, within 7 days after the person's being so notified.

55A - ELECTION OF FEDERAL SECRETARY

- F. If the number of valid nominations received does not exceed the number of delegates to be elected in accordance with these rules the Returning Officer shall declare those persons elected.
- G. If the number of valid nominations received exceeds the number of delegates to be elected the Returning Officer shall forthwith subject to the provisions of this rule dealing with absent voting, proceed to hold a secret ballot of the whole of the membership of Branch Council in accordance with these rules. The Returning Officer shall declare the result of such ballot immediately the counting of votes is concluded.
- H. Any member of the Branch Council who will not be present at the meeting at which an election for delegates to Federal Council is to be held may prior to the close of nominations lodge with the Returning Officer or Branch Secretary a request for an absent vote in respect of the election, which request shall specify the address where the absent vote may be delivered. Where it is not possible to complete the election at the relevant meeting of Branch Council because of the request for, and issue of, an absent vote, the Returning Officer shall not count any votes or declare the result of the election until the member or members to whom absent votes have been issued have had such reasonable opportunity to vote as is determined by the Returning Officer. In any case where it is not practicable to hold the election at the meeting of Branch Council because of the right of a candidate to remedy the defect in terms of sub-Rule E hereof, such election shall be carried out as a secret postal ballot of all members of Branch Council.
- I. Where a special sub-branch exists in a Branch and the rules of the Branch provide for the election of a Branch Delegate to Federal Council from the special sub-branch, then:
- (i) sub-rules A to I inclusive shall apply to the election of other Delegates to Federal Council from the Branch and for the purpose of that election all references in those sub-rules to members of the Branch Council shall be taken to refer to members of the Branch Council who are not members of the special sub-branch and all references to the Branch Council shall be taken to refer to that part of the Branch Council which is composed of members who are not members of the special sub-branch, and
 - (ii) sub-rules A to I inclusive shall apply to the election of the Delegate to Federal Council from the special sub-branch and for the purpose of that election all references in those sub-rules to members of the Branch Council shall be taken to refer to members of the Branch Council who are members of the special sub-branch and all references to the Branch Council shall be taken to refer to that part of the Branch Council which is composed of members who are members of the special sub-branch.

55A - ELECTION OF FEDERAL SECRETARY

- A. The Federal Secretary shall be elected four yearly by secret post ballot of the whole of the financial membership of the Group. Any person shall be eligible to accept nomination for election.
- B. Each election under this rule shall be conducted so that the result is declared not earlier than the 1st of June and not later than the 25th of August in an even-numbered year.
- C. Nominations for elections under this rule shall when necessary be called by publication of a notice in a daily newspaper or newspapers circulating in all States at least twenty-one (21) days prior to the date on which nominations close. Nominations shall be called by the Federal Returning Officer who shall fix the date on which nominations close and the dates between which the ballot if any shall be conducted.

55C – ELECTION OF FEDERAL PRESIDENT AND DETERMINATION OF SENIORITY OF FEDERAL VICE-PRESIDENTS

- D. Nominations shall be in writing and shall be signed by the person accepting nomination and two members of the Federal Council proposing them and specifying the office for which they are being nominated.

B - ELECTION OF FEDERAL VICE-PRESIDENTS AND BRANCH REPRESENTATIVES ON BRANCH EXECUTIVE

- A. The Federal Vice-President and the Branch representative on the Federal Executive from each Branch shall be elected two yearly by secret postal ballots of the delegates to Federal Council from that Branch. The persons eligible to accept nomination for election as Vice-President from each Branch and as Branch Representative on the Federal Executive from each Branch shall be the delegates to the Federal Council from the Branch concerned.

Nominations for Federal Vice-President and for Branch Representative on the Federal Executive shall be in writing and shall be signed by the Member of Federal Council accepting nomination and by one other member of Federal Council proposing them.

- B. Nominations for each of the positions of Vice-President and Branch Representative on the Federal Executive shall be called by notification to all members of Federal Council from the Branch as soon as practicable after they take office. Nominations shall be called for by the Branch Returning Officer or a person appointed in accordance with Rule 53F of these Rules who shall fix the date on which nominations close and the dates between which the Ballot, if any, shall be conducted. Nominations shall close on a date at least 14 days but not more than 28 days after the notification.

55C – ELECTION OF FEDERAL PRESIDENT AND DETERMINATION OF SENIORITY OF FEDERAL VICE-PRESIDENTS

- A. The Federal President shall be elected two yearly by secret ballot of the Federal Councillors held in accordance with these Rules.
- B. The persons eligible to accept nomination for election as Federal President shall be the Federal Vice-Presidents.

Nominations shall be in writing and shall be signed by the Federal Vice-President accepting nomination, and by two other members of Federal Council. Nominations shall be called as soon as practicable after completion of the elections for Federal Vice-President. Nominations shall be called for by the Federal Returning Officer or a person appointed in accordance with Rule 53E of these Rules who shall fix the date on which nominations close and the dates between which the ballot, if any, shall be conducted. Nominations shall close on a date at least 14 days, but not more than 28 days after the notification.

The order of seniority of the remaining Vice-Presidents shall be fixed by agreement between the Vice-Presidents, advised in writing to the President or the Chair of a Federal Council Meeting.

If the election of Federal President is declared before the ordinary two-yearly Federal Council Meeting and no agreement has been received by the time item (xiv) of the Council's agenda is reached, the Federal Council may determine the order.

56 - CASUAL VACANCIES

If the election of Federal President is declared during or after the Ordinary two-yearly Federal Council Meeting and no agreement is advised to the President within two weeks of the declaration, the Federal Council may determine the order by postal ballot. In this case:

- (a) the Federal President shall within four weeks of the declaration advise all Federal Officers that no agreement was advised within two weeks of the declaration;
- (b) any Federal Officer may within six weeks of the declaration notify the Federal Secretary of a motion to determine the order;
- (c) the Federal Secretary shall conduct a ballot of the Federal Council on all such motions commencing within eight weeks of the declaration and concluding not later than 11 weeks after the declaration;
- (d) if one, and only one, of the motions in the ballot receives a majority of the votes exercised upon it then that motion shall be the determination of Federal Council;
- (e) if there is no such motion then the matter shall be determined by Federal Council at its next meeting;
- (f) except as provided in this Rule, the ballot shall be conducted in accordance with the provisions of Rule 42.

If Federal Council meets before the completion of the steps set out in sub-paragraphs (a) to (g) then it may determine the order by resolution and any further action under those sub-paragraphs shall cease.

56 - CASUAL VACANCIES

- A. In the event of a casual or extraordinary vacancy arising in the office of Delegate to Branch Council, Branch Officer, Delegate to Federal Council or Branch Representative on the Federal Executive the Branch concerned may elect or appoint another person to fill the casual vacancy. Where the unexpired period of office is eighteen months or less in the case of an office elected two yearly or three years or less in the case of an office elected four yearly the casual vacancy shall be filled by appointment by the Branch Council of a person who would be eligible for election to the office. In other cases an election shall be conducted using so far as may be practicable the same mode of election as is prescribed by these rules for election to that office. Any person so elected or appointed shall hold office for the unexpired portion of the term of the person he or she is elected or appointed to replace.
- B. Where a casual vacancy is to be filled by election, the Branch Council may appoint a member attached to the Branch or Sub-branch, as the case may be, from which the vacancy arose to act in the vacant position pending the election of a person to fill the vacant position. The member appointed under this sub-rule shall cease to act when the position is filled under Sub-rule A of this rule.

The election shall be held within six months of the vacancy arising, the member then elected to hold office for the unexpired portion of the term attached to that office.
- C. In the event of any casual or extraordinary vacancy occurring in any office of Federal Officer the provisions of Sub-rules A and B of this rule shall apply save that the functions assigned to the Branch Council in those sub-rules shall be performed by the Federal Council.

- A. The election of the holder of each office within the Group shall be -
- (i) an election at which all financial members, or all financial members included in such Branch section or other division or in such class as is appropriate having regard to the nature of the office are subject to reasonable provisions with respect to enrolment, eligible to vote;
 - (ii) an election by and from the voting members of the Federal Council or of all voting members of the Federal Council included in such Branch section or other division or in such class as is appropriate having regard to the nature of the office;
 - (iii) an election by and from the voting members of the Branch Council, or of all voting members of the Branch Council, included in such section or other division or in such class as is appropriate having regard to the nature of the office.
- B. The returning officer conducting every such election shall -
- (i) Satisfy himself as to the eligibility of those members entitled to vote and those persons entitled to nominate or be nominated and the rules governing such election;
 - (ii) Call for accept or reject nominations by such means as will give reasonable notice to those entitled to nominate;
 - (iii) Set a date for and in all other respects decide the detailed arrangements for the conduct of the election including the printing of ballot papers, the printer's certificate as to numbers printed, spoiled papers and the destruction of the plate, the mailing list of all those entitled to vote, a post office box for the reply-paid envelope to accompany ballot papers, the opening and counting of the returned ballot papers and the declaration of the result;
 - (iv) If he finds a nomination to be defective, before rejecting the nomination forthwith notify the person concerned of the defect and where it is practicable to do so give him the opportunity of remedying the defect within not less than seven days of his being so notified.
- C. Every election shall be by secret ballot and shall be conducted by the proportional preferential voting system set out in the Schedule.
- D. Any financial member who expects to be absent from his/her usual place of employment or residence at the time of any ballot shall be entitled to have his/her ballot paper forwarded to his/her temporary address upon making written application to the Returning Officer.
- E. For all purposes relating to elections conducted under paragraph (i) of Sub-Rule A of these rules, the financial membership of persons eligible to nominate persons to offices within the Group, to accept nomination for election to those offices and to vote in any such election shall be ascertained as follows:
- (i) Those persons who are financial members of the Group as at seven (7) clear days prior to the date upon which nominations for the office or offices the subject of the election or elections are to open shall be eligible to nominate persons for, or, inter alia, be candidates nominated for, such office or offices.

- (ii) Those persons who are financial members of the Group as at the close of the roll of voters shall be eligible to vote in an election.
 - (iii) A roll of financial members eligible to vote in the election or elections shall be prepared as at seven (7) clear days prior to the date upon which nominations for the office or offices the subject of the election or elections are to open.
- F For all purposes relating to elections conducted under paragraph (ii) or paragraph (iii) of Sub-Rule A of these rules, the eligibility of persons to nominate persons to offices with the Group, to accept nomination for election to those offices and to vote in any such election shall be ascertained as follows:
- (i) Those persons who are financial members of the Group and holders of the relevant office at the time at which nominations close for the office or offices the subject of the election or elections shall be eligible to nominate persons for, or, inter alia, be candidates nominated for, such office or offices and shall be eligible to vote in such elections.
 - (ii) A roll of members eligible to vote in the election or elections shall be prepared as at the date upon which nominations for the office or offices the subject of the election or elections open.
 - (iii) A supplementary document shall be prepared comprising those persons who have become eligible between the date of preparation of the roll referred to in paragraph (ii) hereof and the time at which the nominations close for the office or offices the subject of the election or elections and that document shall be added to the roll referred to in paragraph (ii) hereof as comprising the roll of persons eligible to vote in that election or those elections.
 - (iv) A further supplementary document shall be prepared comprising those persons who have ceased to be eligible between the dates referred to in paragraph (iii) hereof and the names of the persons on that document shall be deleted from the roll referred to in paragraph (ii) hereof and shall not be eligible to vote in the election or elections for which that roll was prepared.
- G. Every candidate in every such election may appoint by notice in writing to the returning officer any member of the Union to act as scrutineer on his behalf and such scrutineer may if he so requests be present at the mailing out of the ballot papers, the opening of the post office box, the counting of votes and the declaration of the result.
- H. No scrutineer shall interfere with the conduct of any election and may at any time be directed by the returning officer to leave the place where a count is proceeding if in the opinion of the returning officer his presence or conduct is impeding the prompt ascertainment of a true result.
- I. Upon the declaration of the result in every such election the Returning Officer shall forward a statement of the result signed by himself to the Federal Secretary, each Branch Secretary and each candidate.
- J. Where these rules are silent the returning officer may subject to the Act and to the rules give such directions for the conduct of an election as may be necessary or convenient to ensure a prompt ascertainment of a true result.

59 - RIGHTS OF OFFICERS

- K. The Group and every officer of the Group or Branch of the Group who is able to do so shall take such steps as are necessary to ensure that all ballot papers, envelopes, lists and other documents used in connection with or relevant to an election for an office are preserved and kept at the registered office of the Union (or, if the election is for an office in a branch of the organisation at the registered office of that Branch) for a period of one year after the completion of the election.
- L. For the removal and avoidance of doubt these rules are to be read subject to the following proviso: provided that the fact that any election was commenced or declared after any date specified in these rules, or the fact that any step was taken later than provided for or required by these rules, does not invalidate the election in question.
- M. Any reference in these rules to a reply-paid envelope and any other envelope in the conduct of an election by a direct voting system shall be taken as a reference to a declaration envelope and a prepaid envelope in the form prescribed by the regulations made under Schedule 1B of the Workplace Relations Act 1996.

58 - TENURE OF OFFICE

- A. All delegates to Branch Council, Branch Officers, Delegates to Federal Council, Federal Officers and Members of the Federal Executive shall subject to these rules hold office until their successors are elected and shall be eligible for re-election.
- B. Subject to Rule 59 - Rights of Officers, any member of the Branch Executive may be removed from office by resolution in that behalf of Branch Council where such member 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 Union, gross misbehaviour or gross neglect of duty or who has ceased according to the rules of the Group to be eligible to hold the office provided that any such member shall have a right of appeal to the Federal Council.
- C. Subject to Rule 59 - RIGHTS OF OFFICERS, any member of Federal Executive may be removed from office by resolution of Federal Council where such member 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 Union, or gross misbehaviour, or gross neglect of duty or has ceased according to the Rules of the Group to be eligible to hold the office.

59 - RIGHTS OF OFFICERS

- A. No person elected to an office within the Group shall be dismissed from office unless he 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 Union or gross misbehaviour or gross neglect of duty or has ceased according to the rules of the Group to be eligible to hold the office.
- B. Any member desiring to invoke the preceding sub-rule against a person elected to an office shall in writing charge that person with the conduct or circumstances alleged to justify his dismissal and shall forward the written charge to the Federal Secretary who shall forthwith forward a copy of the written charge to the person against whom the charge is made at the same time in writing requesting him to advise whether he admits or denies the charge against him or wishes to make any comment thereon.

59 - RIGHTS OF OFFICERS

- C. At the next ordinary or special meeting of the Federal Executive the charge and any reply made by the person against whom the charge is made shall be considered and the Executive may resolve that:-
- (a) the person charged be called upon to show cause to Federal Council or Federal Executive why he should not be dismissed from office, or
 - (b) the charge should be more properly heard by a Branch of the Group and, in such case, direct that the charge and any reply thereto be forwarded to the relevant Branch Secretary so that it might be considered at the next meeting of the Branch Executive who shall decide whether the charge shall be heard by itself or by the Branch Council, or
 - (c) that no further action be taken.

If the charge in question relates solely to the affairs of a particular Branch and to an officer who only holds office in that Branch or representing that Branch, then the Federal Executive shall remit the matter to the relevant Branch Secretary to be dealt with by that Branch in accordance with this Rule, unless the Federal Executive is of the view that the charge cannot be fairly dealt with by that Branch.

- D. If the charge is proceeded with the person charged shall be called upon to attend before the appropriate body at a stated time and place to show cause why he should not be dismissed from office and shall be furnished by the person laying the charge with particulars of the charge reasonably sufficient to enable him to know the nature of the allegation made against him and the circumstances alleged to justify his dismissal.
- E. The person laying the charge and the person charged:-
- (a) shall be heard in person if he or they so desire, or
 - (b) may submit a written statement, call witnesses or evidence relevant to the charge.

No person shall be present at the hearing of the charge other than the person charged, the person laying the charge, and the members of the relevant body and any witnesses called, provided that any witnesses called may only be present while such witness's evidence is being taken. No person, other than a member of the relevant body, shall be present after the hearing of such charge whilst the body is deliberating upon its decision in relation to such a charge.

- F. The appropriate body shall determine the matter and shall make such decision thereon as the facts of the matter require and such decision shall, subject to the provisions of these rules as to appeals be final. In making a decision under this Sub-rule, a body may remove an officer found guilty of a charge laid under this Rule from some or all of the offices held by him in the Group, provided that a Branch Council or Branch Executive may only remove an officer from one or more of the offices held by him in that Branch or representing that Branch. The appropriate body may decide to issue a rebuke, caution, reprimand or warning to an officer found guilty of a charge laid under this Rule as an alternative to removal from an office or offices held by him in the Group.
- G. An office-holder may by resolution of Federal or Branch Executive be directed not to carry out some or all of the duties attaching to his office pending the hearing of any charge against him provided that any decision of a Branch Executive under this Sub-rule shall be limited to offices in that Branch, or representing that Branch.

60 - BREACH OF RULES

- A. Subject to the provisions of Rule 59, Rights of Officers, the Federal Council and/or Federal Executive shall have power to investigate any suspected or alleged breach of these rules and to determine whether any member has committed a breach of these rules.
- B. A member is guilty of a breach of these rules who:
- (i) breaches or fails to comply with any provision of these rules;
 - (ii) knowingly fails to obey any lawful resolution of the Union;
 - (iii) gives false or misleading information to the Union on any matter relating to the objects of the Union;
 - (iv) fails, without reasonable excuse, to attend any meeting of the Group when summoned by the Council or Executive;
 - (v) obstructs the Union, the Council or the Executive in the performance of its functions pursuant to these rules;
 - (vi) obstructs, insults or behaves in an offensive manner towards any officer or employee of the Union acting in the course of his or her duties;
 - (vii) wrongfully holds himself or herself out, without reasonable excuse, as occupying any office or position, or as representing the Union;
 - (viii) behaves in a drunken, disorderly or offensive manner at any meeting of the Union or in any office of the Union;
 - (ix) aids or encourages any other member in a breach of these rules.
- C. Any member who alleges that another member has breached these rules may lay a charge under this Rule. Such charge shall be in written form and shall be forwarded to Federal Secretary. However, the powers of the Federal Council and the Federal Executive under this Rule shall not depend upon the laying of a charge by an individual member in accordance with this Sub-rule.
- D. A member shall not be found guilty of a breach of these rules unless he has been given notice of the charge made and has been given a reasonable opportunity to present any defence to the charge.
- E. The Federal Council and/or Federal Executive shall have power to expel or suspend from membership or to impose a fine not exceeding twenty dollars or a rebuke or caution, reprimand or warning upon any member found guilty of a breach of these rules.

61 - TRANSITIONAL RULE AS TO BRANCH RULES

- A. Deleted.
- B. Until otherwise determined by Branch rules adopted by Branches in accordance with the foregoing sub-rule the following rules shall apply to Branches:

62 - RULE RELATING TO ADDITIONAL TRANSITIONAL ARRANGEMENTS

- (i) General and special meetings of the members of the Branch shall be convened on at least seven (7) days notice to the members by advertisement in a newspaper or newspapers circulating in the area of the Branch signed by the Branch President or failing him the Branch Secretary and specifying the date time and place of the general or special meeting and the business of the meeting.
- (ii) Ten per cent of the financial membership of the Branch may by signing a requisition or requisitions in common form require that a special meeting of members of the Branch be held to transact business to be specified in the requisition or requisitions (as the case may be). Such special meetings shall be so convened as to be held within three weeks of the date when the requisition or requisitions (as the case may be) are received by the Branch President or other Branch Officer. The decision of such special meeting shall, subject to these rules be performed or observed by Branch Council and Branch Executive.

62 - RULE RELATING TO ADDITIONAL TRANSITIONAL ARRANGEMENTS

- A. This rule shall apply notwithstanding anything in these rules to the contrary.
- B. (i) In addition to any other rules which, subject to these rules, may be made and adopted by Branches of the Group, Branches may make rules relating to the establishment of special sub-branches and such rules shall provide:
 - (a) an entitlement to elect from the members of the special sub-branch delegates to Federal Council representing the Branch and the special sub branch;
 - (b) the special sub-branch shall not have as members of that sub-branch persons who immediately prior to the coming into existence of the sub-branch were members of the following Associated Bodies of the Union:

Public Service Association of New South Wales;
Victorian Public Service Association;
The State Public Services Federation Tasmania;
Public Service Association of South Australia Incorporated
The Civil Service Association of Western Australia (Inc.)
 - (c) the number of delegates entitled to be elected by and from the special sub-branch as branch delegates to Federal Council shall not be disproportionate to the size of the special sub-branch in relation to the branch as a whole.
 - (d) provision for the election of a branch officer and Branch Councillors from the members of the special sub-Branch.
 - (e) provision for election of officers of the Branch for persons who are officers of an organisation whose members are entitled to become members of the sub branch.
- C. Upon an amalgamation of the Union with the present Federally-registered organisation known as The Professional Officers' (State Public Services and Instrumentalities) Association (hereinafter referred to as "The Association") all persons who prior to the said amalgamation were members of the Union and the Association shall on and from the date of the said amalgamation continue to be or become members of the Union as the case may be and thereafter shall continue their membership in the Union in accordance with these rules.

- A. This rule shall apply notwithstanding anything in these rules to the contrary.
- B. A Queensland Branch of the SPSF Group shall be deemed to have been established in the State of Queensland. The Queensland No. 1 Branch and the Queensland No. 2 Branch of the SPSF Group existing as at the establishment of the Queensland Branch of the SPSF Group shall be deemed to have merged for all purposes. The Queensland Branch of the SPSF Group shall operate as a single autonomous administrative unit with the powers and responsibilities under the Rules of the SPSF Group, the Act and the Regulations.
- C. The delegates to Federal Council, Federal Officers and Members of the Federal Executive from the Queensland No. 1 Branch and the Queensland No. 2 Branch holding office as at the establishment of the Queensland Branch of the SPSF Group shall be deemed to be delegates to Federal Council, Federal Officers, and Members of the Federal Executive from the Queensland Branch of the SPSF Group for all purposes, and shall hold office until their successors from the Queensland Branch of the SPSF Group are elected in accordance with these rules. This sub-rule shall apply notwithstanding the provisions of sub-rules A & B of Rule 34.
- D. The Branch Officers and Delegates to Branch Council from the Queensland No. 1 Branch and the Queensland No. 2 Branch holding office as at the establishment of the Queensland Branch of the SPSF Group shall be deemed to be Branch Officers and Delegates to Branch Council of the Queensland Branch of the SPSF Group for all purposes, and shall hold office until their successors from the Queensland Branch of the SPSF Group are elected in accordance with the provisions of sub-rule G of this Rule. Any Branch Officer holding an office with the same name or description as another Branch Officer shall be deemed to be a Joint Branch Officer, and shall jointly exercise the powers of the respective Branch Offices of that name or description.
- E. The transitional Queensland Branch Council of the SPSF Group shall be the committee of management of that Branch, shall have all the powers of Branch Council including power to summon general and special meetings of members of the Branch and shall consist of the Branch Officers and Delegates to Branch Council of the Queensland Branch deemed as such by sub-rule D of this Rule.
- F. The transitional Queensland Branch Council shall act promptly to:
- (i) Draft detailed rules consistent with these rules for the government of the Branch in particular making detailed or additional provision for the election of members of Branch Council and the calling of general and special meetings of the members of the Branch;
 - (ii) Submit such rules forthwith to a special meeting of the Branch Council for approval and if approved for certification by the Industrial Registrar as the rules of the Branch;
 - (iii) Appoint a Branch Returning Officer to conduct elections pursuant to Rule 54A of Branch Delegates to Branch Council and Branch Officers in accordance with the provisions of this Rule.
- G. The Branch Officers and Delegates to Branch Council of the Queensland Branch deemed as such by sub-rule D of this Rule shall hold office until their successors are elected in accordance with the ordinary rules of the SPSF Group and Rule 64D in 1994, and shall be eligible for the re-election.

64 - TRANSITIONAL RULES RELATING TO ELECTIONS

- H. Upon the establishment of the Queensland Branch of the SPSF Group, the Branch shall have 8 Branch Delegates to Federal Council and the number of votes which Queensland Branch Delegates to Federal Council and Federal Executive shall be entitled to exercise shall be determined in accordance with sub-rule B of Rule 25.

64 - TRANSITIONAL RULES RELATING TO ELECTIONS

- A. This rule shall apply notwithstanding anything in these rules to the contrary.
- B. (i) The persons elected in 1992 in or for the New South Wales Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive shall hold office only until the election of their successors in 1993.
- (ii) Elections shall be held in 1993 in and for the New South Wales Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive and the persons then elected shall hold office until the election of their successors in 1996.
- (iii) The elections in 1993 in and for the New South Wales Branch and the Western Australian Branch shall be conducted so that the results of elections for Delegates to Branch Council and Branch Officers are declared not later than 8 October, 1993 and the results of elections for Branch Delegates to Federal Council are declared not later than 12 November, 1993.
- (iv) There shall be no election held in 1994 in or for the New South Wales Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive.
- (v) The elections in 1996 in and for the NSW Branch shall be conducted so that the results of elections for delegates to Branch Council and Branch Officers are declared not later than 16 November 1996 and the elections for Branch Delegates to Federal Council are declared not later than 21 December 1996.
- C. The persons elected in 1992 in or for the Victorian Branch to the offices of delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive shall hold office only until the election of their successors in 1993.
- Elections shall be held in 1993 in and for the Victorian Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive and the persons then elected shall hold office until the election of their successors in 1996.
- There shall be no election held in 1994 in or for the Victorian Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive.
- D. The persons elected in 1992 in or for the Queensland No. 1 Branch and Queensland No. 2 Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive shall hold office only until the election of their successors in 1994 (whether by an election in one of those Branches or in a single Queensland Branch).

64 - TRANSITIONAL RULES RELATING TO ELECTIONS

The persons elected in 1994 in or for the Queensland No. 1 Branch and Queensland No. 2 Branch or a single Queensland Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive shall hold office only until the election of their successors in 1996 (by an election in any of those Branches).

- E. The persons elected in 1992 in or for the Western Australian Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive shall hold office only until the election of their successors in 1993.

Elections shall be held in 1993 in and for the Western Australian Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive and the persons then elected shall hold office until the election of their successors in 1996.

There shall be no election held in 1994 in or for the Western Australian Branch to the offices of Delegate to Branch Council, Branch Officer, Delegate to the Federal Council and Branch Representative on the Federal Executive.

- F. There shall be elections conducted in 1992 in each Branch for all Offices within the Group in accordance with the provisions of the rule or applicable to each such office. This sub-Rule is made to ensure that any possible doubt as to the effect of certain rule changes in 1992 is removed.

SCHEDULE - PROPORTIONAL REPRESENTATION

In any election conducted in accordance with this Schedule the following provisions shall apply:

1. A voter shall record their vote for at least the number of candidates to be elected by placing the number "1" and if necessary the numbers "2", "3", "4" and so on consecutively in the squares opposite the names of the candidates in the order of the voter's preference for them.

A voter may, if the voter so desires, vote for additional candidates by placing further consecutive numbers in the squares opposite their names in the order of his preferences.

2. At the close of the poll the Returning Officer shall ascertain the total number of first preference votes recorded for each candidate on all ballot papers not rejected by the Returning Officer as informal and the total of all such votes.

The Returning Officer shall then determine a quota by dividing the total number of first preference votes for all candidates by the number equal to the number of positions to be filled plus one and by increasing the quotient so obtained (disregarding any remainder) by one.

The Returning Officer shall declare elected any candidate who has received a number of first preference votes equal to or greater than the quota so determined.

3. Unless all vacancies have been filled, the surplus votes above the quota of each elected candidate shall be transferred to the continuing candidates, in proportion to the voters' preferences, as follows:

- (a) The Returning Officer shall ascertain in respect of each continuing candidate, the total number of ballot papers of the elected candidate which bear the next available preference for that continuing candidate.

- (b) The Returning Officer shall divide the number of elected candidate's surplus votes by the number of first preference votes (excluding any first preference votes indicated on ballot papers which do not bear a next available preference for a continuing candidate) received by the Returning Officer and the resulting fraction shall, for the purposes of this clause, be the transfer value of that candidate's surplus votes.

- (c) The Returning Officer shall, by multiplying that total by the transfer value of the elected candidate's surplus votes, determine the number of votes to be transferred from the elected candidate to each continuing candidate.

If, as a result of the multiplication, any fraction results, so many of those fractions, taken in the order of their magnitude, beginning with the largest, as are necessary to ensure that the number of votes transferred equals the number of elected candidate's surplus votes shall be reckoned as of the value of unity and the remaining fractions shall be ignored.

4. If, as a result of the transfer of the surplus votes of a candidate elected at any stage of the scrutiny, a continuing candidate has received a number of votes equal to or greater than the quota, that candidate shall be elected.

SCHEDULE A

Unless all the vacancies have been filled, the surplus votes of the elected candidates shall be transferred to the continuing candidates in accordance with the provisions of clause 3 but, in the application of those provisions, only those ballot papers which have been transferred to the elected candidates from the candidate or candidates elected at the last preceding count shall be taken into consideration.

5. (a) If, after the transfer of the surplus votes of the elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes shall be excluded and the whole of that candidate's ballot papers shall be transferred to the continuing candidates next in order of the voters' available preferences.

Any votes received by an excluded candidate by transfer of a surplus shall be transferred at their transfer value which they were transferred to that candidate.

- (b) If thereupon, or as a result of the exclusion of a candidate at any subsequent stage of the scrutiny, a continuing candidate has received a number of votes equal to or greater than the quota, that candidate shall be elected.
- (c) If no continuing candidate has then received a number of votes equal to the quota, the process of excluding the candidate with the fewest votes and the transferring of ballot papers containing those votes to the continuing candidates shall be repeated until a continuing candidate has received a number of votes equal to the quota, or in respect of the last vacancy, a majority of the votes remaining in the count, but the process of excluding candidates shall not be repeated after the number of continuing candidates is equal to the number of unfilled vacancies.
- (d) A ballot paper that under this clause is, pursuant to the exclusion of a candidate, required to be transferred to a continuing candidate shall be set aside as finally dealt with if it does not indicate a next available preference for a continuing candidate.

6. After all the candidates who have received a number of votes equal to the quota are elected -

- (a) where there is one remaining vacancy - the candidate who has received a majority of the votes remaining in the count; or
- (b) where the number of continuing candidates is equal to the number of remaining unfilled vacancies - those candidates.

shall be elected.

7. Where, on the count of the first preference votes, or at the same time at any subsequent stage of the scrutiny, two or more candidates are elected by reason of their having received a number of votes equal to or greater than the quota, any transfer of the surplus votes of those candidates shall be carried out in the order, first of the candidate with the largest surplus, second of the candidate with the next largest surplus and so on.

In the case of surpluses of equal size the Returning Officer shall determine by lot which shall be first distributed.

SCHEDULE A

8. Notwithstanding anything contained in this Schedule, a transfer of the surplus votes of an elected candidate shall be deferred (but without affecting the order of that transfer) so long as the total number of those surplus votes and any other surplus votes not transferred is less than the difference between the total votes of the two continuing candidates with the fewest votes.

In any such case, unless all vacancies have been filled, the candidate with the fewest votes shall be first excluded and the ballot papers containing that candidate's votes shall be transferred to the continuing candidates as provided in clause 5.

9. Where, on any count at which the candidate with the fewest number of votes has to be excluded, two or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being the only continuing candidates)-
- (a) such one of those candidates as had the fewest number of votes at the last count at which they did not have an equal number of votes shall be excluded; or
 - (b) if they had an equal number of votes at all preceding counts, the Returning Officer shall determine by lot which candidate shall be excluded.

If after such exclusion there is only one continuing candidate the Returning Officer shall declare that candidate elected.

10. A ballot paper on which the voter has recorded the required minimum number of votes shall not be treated as informal by reason only that:
- (a) the same preference (other than the voter's first preference) has been recorded on the ballot paper for more than one candidate, but the ballot paper shall be treated as if those preferences and any subsequent preferences had not been recorded on the ballot paper, or
 - (b) there is a break in the order of the voter's preferences, but the ballot paper shall be treated as if any subsequent preferences had not been recorded on the ballot paper.
11. A reference in this Schedule to an exhausted ballot paper is a reference to a ballot paper on which there is not recorded a vote for a continuing candidate.

Rules of the
CPSU - SPSF Group - Western Australian Prison Officers' Union
(WAPOU) Branch
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RULES OF THE CPSU, SPSF GROUP WESTERN AUSTRALIAN PRISON OFFICER'S (WAPOU) BRANCH

1 - FEDERAL RULES

These rules are in addition to the federal rules of CPSU, the Community and Public Sector Union and shall apply to the SPSF Group Western Australian Prison Officers' Union Branch so far as they are not in conflict with the federal rules.

2 - NAME

The name of the Branch shall be the CPSU, the Community and Public Sector Union, SPSF Group, Western Australian Prison Officers' Union Branch, in these rules called the WAPOU Branch.

3 - REGISTERED OFFICE

The office of the WAPOU Branch shall be at 63 Railway Parade, Mt Lawley, or such other address as the Branch Council resolves.

4 - BRANCH MEMBERS

- 4.1 The members of the WAPOU Branch shall be those persons employed in a prison or prison service in the State of Western Australia, who is not a member of, or eligible to be a member of the CPSU/CSA Western Australian Branch and who has been admitted to membership of the CPSU, SPSF Group and who is eligible for membership under Rule 2 – Constitution and Eligibility for Membership of the CPSU rules.
- 4.2 Membership shall cease upon the member severing employment with a prison or prison service within the State of Western Australia.
- 4.3 A member may end membership by giving written notice of the intention to resign from the later date specified in the notice, but the member will be responsible for any subscriptions, levies and fines owing up to and including the date of ceasing to be a member of the WAPOU Branch.

5 - POWERS, CONTROL AND MANAGEMENT OF BRANCH

- 5.1 The WAPOU Branch shall have all powers vested in it in accordance with Chapter C of the federal rules and shall at all times conform to the federal rules. (Chapter C of the federal rules provide that the WAPOU Branch shall have full autonomy in matters affecting members of the WAPOU Branch only and matters concerning the participation of the WAPOU Branch in any State industrial conciliation and arbitration system).
- 5.2 Democratic control of the WAPOU Branch resides with the members who can by virtue of provisions elsewhere in the rules:
 - (a) participate in Annual General Meetings and Special General Meetings of the WAPOU Branch;
 - (b) contest elections;

6 - BRANCH COUNCIL

- (c) vote in ballots, and at membership meetings;
- (d) lay charges of misconduct against officials and other members; and
- (e) requisition Special General Meetings or Referenda.

6 - BRANCH COUNCIL

6.1 The affairs of the WAPOU Branch shall be managed by the Branch Council, which shall have power to control and manage the business and affairs of the WAPOU Branch in the State of Western Australia, subject always to the federal rules and in so far as they affect its members, and to any lawful direction of the National Officers Committee, Federal Council or Federal Executive and without limiting the generality of this power shall have power to:

- (a) make amend and rescind rules and bylaws for the regulation and government of the WAPOU Branch;
- (b) enrol in the Union any person eligible to be a member under Rule 4 – Branch Members;
- (c) fix and from time to time vary the entrance fees and subscriptions payable by candidates for membership and members of the SPSF Group attached to the WAPOU Branch;
- (d) impose levies on members attached to the WAPOU Branch;
- (e) waive in whole or part any fees, subscriptions and levies;
- (f) disburse or authorise the disbursement of monies from the WAPOU Branch fund for any purpose within the objects of the CPSU;
- (g) for the purposes of managing the Branch Fund:
 - (i) to buy, sell, rent, lease, sublet or otherwise deal with any property real or personal;
 - (ii) to enter into any contract;
 - (iii) to borrow money and mortgage or charge any of the real or personal property of the WAPOU Branch;
 - (iv) to establish any company or trust to hold, or assign on trust, any real or personal property of the Branch Fund;
- (h) appoint or remove a Branch Returning Officer qualified to act in accordance with the *Fair Work (Registered Organisations) Act 2009 (Cth)* to conduct any election for which a Returning Officer is required to in connection with any Branch office in the SPSF Group;
- (i) appoint or remove a Branch Auditor qualified to act in accordance with the Act for any purpose for which an auditor is required in connection with the Branch accounts of the SPSF Group;
- (j) fix and from time to time vary the salaries and allowances or honorariums payable to Branch Officers and to confer authority on the Branch Secretary to employ, retain and terminate the employment of such staff on such terms as shall be specified in a resolution of Branch Council;

7 - BRANCH EXECUTIVE

- (k) subject to the rights of Officers under Chapter C of the federal rules, dismiss from office any person elected to an office within the WAPOU Branch who has been found guilty in accordance with the rules of the CPSU of misappropriation of the funds of the CPSU, a substantial breach of the rules of the CPSU, gross misbehaviour or gross neglect of duty, or who has ceased according to the rules of the CPSU to be eligible to hold the office provided that any such person shall have a right of appeal to the Federal Council;
 - (l) to publish and distribute Branch Publications;
 - (m) do all things necessary or convenient to the exercise of the foregoing powers.
- 6.2 The Branch Council shall consist of:
- (a) the Branch Executive Officers; and
 - (b) the Delegates to Branch Council elected by each Sub-Branch on the basis of one delegate for each hundred financial members or part thereof.
- 6.3 Branch Council shall meet at least every two months or at such other times as Branch Council or Branch Executive shall deem necessary and shall be convened by notice signed by the Branch Secretary.
- 6.4 At every meeting of Branch Council the quorum shall be twelve (12).

7 - BRANCH EXECUTIVE

- 7.1 Between meetings of Branch Council the management of the WAPOU Branch shall be vested in the Branch Executive which shall be the committee of management of the Branch and pending the first meeting of Branch Council shall have all such powers except the power to make, amend or rescind rules or any power expressly reserved to itself by decision of Branch Council.
- 7.2 The Branch Executive shall meet at least every two months between meetings of Branch Council and whenever required by the Branch President after consultation with the Branch Secretary.
- 7.3 The Branch Executive shall consist of:
- (a) the Branch President;
 - (b) the Branch Vice-President;
 - (c) the Branch Secretary;
 - (d) the Branch Assistant Secretary
 - (e) the Branch Treasurer; and
 - (f) three (3) Executive Members.
- 7.4 An Executive Officer may attend and speak at any meeting in the WAPOU Branch held under these rules.

10 - BRANCH FUND

- 7.5 Members of the Branch Executive shall be elected for a period of four (4) years, by the whole of the financial membership of the WAPOU Branch.

8 – DELEGATES TO BRANCH COUNCIL

- 8.1 For the purpose of determining the number of delegates to be elected in accordance with sub-rule 6.2 (b) hereof, the number shall be determined in accordance with the number of financial members in each Sub-Branch at the end of the quarter of the year preceding the calling for nominations for election to the Branch Council.
- 8.2 Delegates elected by each Sub-Branch shall be elected every four years with Northern Region Sub-Branches elections and elections for Sub-Branches other than Northern Region Sub-Branches being held separately in alternative even-numbered years.
- 8.3 For the purpose of this rule the Northern Region Sub-Branches shall be Roebourne Regional Prison, Broome Regional Prison, Greenough Regional Prison, Eastern Goldfields Regional Prison, Hakea Prison, Bandyup Women’s Prison and West Kimberley Regional Prison.
- 8.4 For the purposes of this rule, Sub-Branches other than Northern Region Sub-Branches are those that are not listed in Rule 8.3.
- 8.5 A Delegate to Branch Council transferred to another Sub-Branch other than on a temporary basis for less than six (6) months shall cease to be eligible to hold office in such circumstances.
- 8.6 With the exception of Delegates to Branch Council who reside fifty kilometres or more away from the Perth Metropolitan Area, a Delegate to Branch Council or Branch Executive who, without good and sufficient reasons acceptable to Branch Council, absents themselves from three (3) consecutive meetings, may with the consent of a General Meeting be removed from office and the vacancy filled as provided for under these rules.

9 – CASUAL VACANCIES

- 9.1 Should any member of Branch Council cease to be a member of Branch Council for any reason other than because the period for which such member of Branch Council was elected has expired, the powers and duties of the Branch Council shall not be invalidated because of such vacancy.
- 9.2 Casual vacancies shall be filled in accordance with the elections provisions of these rules, provided that any person elected shall hold office for the balance of the unexpired term of office.
- 9.3 A Sub-Branch may nominate a proxy Delegate to Branch Council to fill a temporary vacancy for the period up until an election is held to fill the vacancy.

10 - BRANCH FUND

- 10.1 The Branch Fund shall consist of:
- (a) any real or personal property of which the WAPOU Branch of the SPSF Group by the rules or by any established practice not inconsistent with the rules, has, or in the absence of any limited term lease, bailment or arrangement, would have the right of custody, control or management;

12 - ANNUAL GENERAL MEETING

- (b) the amounts of entrance fees, subscriptions, fines, levies and other fees received by the WAPOU Branch, less so much of the amount as is payable by the WAPOU Branch to the CPSU;
 - (c) any interest, rents or dividends derived from the investment of the Fund;
 - (d) any superannuation or long service leave fund operated or controlled by the WAPOU Branch for the benefit of its officers or employees;
 - (e) any fund operated or controlled by the WAPOU Branch for the benefit of its members;
 - (f) any property acquired wholly or mainly by expenditure of the monies of the Fund or derived from other assets of the Fund; and
 - (g) the proceeds of any disposal of parts of the Fund.
- 10.2 Cheques and other instruments drawn against funds deposited to the credit of the Branch Fund with banks or other financial institutions shall be signed by the Branch Secretary or a person delegated for the purpose by the Branch Secretary, and one other person who is either:
- (a) the Branch Treasurer;
 - (b) another member of the Branch Executive; or
 - (c) a person appointed by Branch Council for the purpose of signing cheques and other such instruments.

11 - ANNUAL REPORT

- 11.1 A report by the Branch President and Branch Secretary of the activities of the WAPOU Branch during the preceding financial year, together with the financial statements for the Branch Fund, and following approval by Branch Council, shall be presented at the Annual General Meeting and made available to members on the Union's web site. A summary of the report, approved by the Branch Secretary, shall be published in an official publication to all members. A full copy of the report shall be provided to any member who so requests.

12 - ANNUAL GENERAL MEETING

- 12.1 The Annual General Meeting of members of the WAPOU Branch shall be held in the first quarter of each financial year.
- 12.2 At least seven days notice of the date, time and place for the holding of any Annual General Meeting of members of the WAPOU Branch shall be published in an official Branch publication directed to all members and in a Perth daily paper.
- 12.3 The text or details of any motions of which notice has been given shall appear in the notice published in an official Branch publication.
- 12.4 No business shall be transacted at the Annual General Meeting other than that stated in the notice convening the meeting.

13 - SPECIAL GENERAL MEETINGS

- 12.5 The Branch Council shall determine what additional items to include on the agenda in sufficient time to allow the agenda to be published at least 7 days prior to the Annual General Meeting.
- 12.6 A quorum for an Annual General Meeting shall consist of twenty (20) members.
- 12.7 If, within a quarter of an hour from the time appointed for the meeting a quorum of members be not present, it shall stand adjourned until another meeting can be arranged; and at such adjourned meeting the members there present will dispose of all business on the notice paper.
- 12.8 The President may, with the consent of the members present, adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 12.9 Any resolution formally carried at a general meeting of the WAPOU Branch shall be an instruction to the Branch Council and Executive Officers of the Branch; provided that the Branch Council, after mature consideration, may defer action on any such resolution, pending the calling of a Special General Meeting, within one month, to further discuss the subject. If the resolution be re-affirmed by the Special General Meeting, the Branch Council shall then carry out the direction of such meeting.

13 - SPECIAL GENERAL MEETINGS

- 13.1 Special General Meetings shall be convened:
- (a) whenever it is considered necessary by the Branch Council; or
 - (b) on the receipt by the Branch Council of a requisition in writing stating the objects and signed by not less than one hundred (100) members of the Branch; or
 - (c) by the Branch Secretary in the event only of there being no quorum of at least 12 delegates or 30%, whichever is lesser, of the Branch Council competent to vote at a Branch Council meeting held for the purpose of considering the circumstances as set forth by paragraphs (a) and (b) above,
- upon receipt of such requisition a Special General Meeting shall forthwith be convened by the Branch Secretary to be held within 28 days from the receipt of such requisition, but if same be not convened within 14 days from the date of receipt the requisitioners may themselves convene a meeting.
- 13.2 No business shall be transacted at a Special General Meeting other than that stated in the notice convening the meeting, and no motion considered, or other business transacted, at any meeting which is not included within the objects and purposes for which the meeting is convened and no amendments shall be allowed upon any motion contained in the notice convening any meeting not directly pertinent thereto.
- 13.3 Whenever a Special General Meeting shall lapse for the want of a quorum or by the resolution of the members present be adjourned to a future day, notice thereof shall be given by circular or advertisement as determined by the chairperson of the meeting.

14 - REFERENDUM

- 13.4 If, within a quarter of an hour from the time appointed for the meeting a quorum of members be not present, the meeting if convened upon the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to another date and if at such adjourned meeting a quorum of members be not present, it shall be adjourned sine die.
- 13.5 The provisions of Rule 12, paragraphs 12.2, 12.3, 12.6 and 12.8 shall also apply to Special General Meetings.
- 13.6 Any resolution carried at a Special General Meeting may, if the Branch Council so decide be referred for determination by a referendum of all the financial members of the WAPOU Branch.
- 13.7 The result of the ballot or, where no ballot is to be conducted, any resolution carried at a Special General Meeting, shall be binding on the Branch Council.

14 - REFERENDUM

- 14.1 A referendum to obtain the view of all financial members of the WAPOU Branch on any question governing the affairs of the WAPOU Branch may be initiated by a:
- (a) resolution of the Branch Council; or
 - (b) resolution of an Annual General Meeting or Special General Meeting to refer a motion before it to a referendum; or
 - (c) requisition signed in writing by twenty (20) percent of the financial members of the WAPOU Branch.
- 14.2 A requisition calling for a referendum 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 and shall be submitted to the next meeting of the Branch Council who shall:
- (a) agree to the question, in which case the decision shall be implemented immediately; or
 - (b) not agree to the question, in which case it shall thereupon be referred to a referendum of financial members accompanied by the statement provided by the requisitioners in support, provided that the Branch Council may determine that several referenda shall be conducted by a single ballot of financial members.
- 14.3 The arrangements for the taking of a referendum shall be made by the Branch Executive who shall:
- (a) appoint for the conduct of the referendum a Returning Officer and such Assistant Returning Officers and Scrutineers as it deems necessary; and
 - (b) prepare material to accompany the question, which in the case of a referendum not agreed to by the Branch Council shall include an objective statement of the arguments against the question.
- 14.4 The Returning Officer shall:
- (a) issue a ballot paper, and accompanying material, to each financial member of the WAPOU Branch;

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- (b) supervise the counting of the returns; and
 - (c) declare the final result of the ballot as a whole in writing to the Branch Secretary.
- 14.5 Any question put pursuant to any provision of this Rule shall be determined by a simple majority.
- 14.6 When a question is carried in the affirmative by a referendum it shall be put into effect forthwith.
- 14.7 No question substantially the same in substance or effect, shall be resubmitted to referendum within a period of two years from the declaration of a ballot, provided that this provision shall not preclude the Branch Council from submitting any question to referendum at any time.

15 - DUTIES OF MEMBERS

- 15.1 Every person applying for membership in so doing agrees to be bound to comply with the rules for so long as they are a member and undertakes to work for the interests of the Union and its members collectively and within the democratic structures provided.
- 15.2 Decisions of meetings of members, Branch Council and other bodies, called and conducted in accordance with these rules are binding on members. This does not prejudice the right of members to seek to vary such decisions within the framework of the Union and its rules.

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- 16.1 The Branch President shall:
- (a) preside at all meetings of Branch Council, Branch Executive and any meetings in the WAPOU Branch that they attend, and sign the minutes thereof;
 - (b) enforce the rules, Union and WAPOU Branch policies and standing orders, and have control of meetings at which he or she presides, and shall use all necessary power to secure and enforce order and expedition in the conduct of the business and good order of the members thereat;
 - (c) in consultation with the Branch Secretary determine the date, time and place of meetings of Branch Council and Branch Executive whenever such date, time and place has not been determined by Branch Council or Branch Executive;
 - (d) exercise a deliberative vote if he or she so desires at meetings of Branch Council and Branch Executive;
 - (e) ensure, as far as possible, that the rules of the WAPOU Branch are performed and observed by officers and members of the WAPOU Branch;
 - (f) request and receive an explanation from any officer or member of the WAPOU Branch in any case where the Branch President believes that the rules of the WAPOU Branch have not been performed or observed and report thereon to Branch Executive and Branch Council;
 - (g) generally act to safeguard the reputation, unity, autonomy and property of the WAPOU Branch;

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- (h) be an ex-officio member of all committees of the WAPOU Branch;
 - (i) act in conjunction with the Branch Secretary and at least two other members of the Branch Executive in all matters of urgency.
- 16.2 The Branch Vice-President shall:
- (a) assist the Branch President in the performance of the duties of the Branch President;
 - (b) in the absence of the Branch President, or whenever the Branch President requests, or Branch Council or Branch Executive instructs, perform the duties of the Branch President or such of those duties as may be specified in each request or instruction;
 - (c) in the absence of the Branch Treasurer, or whenever Branch Council or Branch Executive instructs, perform the duties of the Branch Treasurer or such of those duties as may be specified in each request or instruction; and
 - (d) attend all meetings of the Branch Council and Branch Executive.
- 16.3 The Branch Treasurer shall:
- (a) furnish to the Branch Council at each ordinary meeting a statement showing the financial position of the WAPOU Branch;
 - (b) present to the Branch Council such reports as may have been supplied by the Auditors;
 - (c) in the absence of the Branch President and the Branch Vice- President, or whenever the Branch President requests, or Branch Council or Branch Executive instructs, shall perform the duties of the Branch President or such of those duties as may be specified in each request or instruction; and
 - (d) attend all meetings of the Branch Council and Branch Executive.
- 16.4 The Branch Secretary shall:
- (a) be the executive officer of the WAPOU Branch and, subject to Rule 6, be responsible for the administration of the WAPOU Branch, the management of the Branch Office and the direction of the employees of the WAPOU Branch;
 - (b) attend all General Meetings and meetings of the Branch Council or Branch Executive;
 - (c) attend to and keep a copy of all correspondence;
 - (d) keep minutes of all meetings and record business transacted by the WAPOU Branch, circulate such minutes in draft where required and present a true copy of minutes at a subsequent meeting of the same body;
 - (e) convene all General Meetings and summon members of the Branch Council and Branch Executive to all meetings;
 - (f) keep a register of all members of the WAPOU Branch and the Sub-Branch to which members are assigned;

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- (g) conform to all the requirements of legislation required to be observed by the WAPOU Branch and where necessary and appropriate submit industrial disputes to conciliation and arbitration in accordance with the practices and procedures set out in the legislation;
- (h) keep proper books of account of the WAPOU Branch and see to the preparation of an annual balance sheet and statement of receipts and payments and income and expenditure disclosing the true financial position of the WAPOU Branch and submit same together with all books and vouchers or records required for audit to the WAPOU Branch and in particular:
 - (i) be accountable for all monies received by the WAPOU Branch;
 - (ii) ensure prompt payment of WAPOU Branch monies into the appropriate bank account of the WAPOU Branch;
 - (iii) be accountable for all monies expended from Branch funds;
 - (iv) ensure cheques drawn upon the Branch fund in payment of accounts are correct to be paid and that all cheques are countersigned;
 - (v) not make any disbursement directly out of monies received before being banked;
 - (vi) produce any books and records for inspection at all reasonable times when demanded by the Branch Council;
 - (vii) produce any financial records for inspection when demanded by the Auditor or Branch Treasurer;
- (i) discharge all such other duties and services as may be assigned by the Branch Council or Branch Executive;
- (j) not pay, lend or otherwise appropriate any of the funds of the Branch for any cause or purpose whatsoever unless so authorised by the Branch Council;
- (k) not make any disbursement directly out of monies received before being paid into the bank.
- (l) be an ex-officio member of all committees of the WAPOU Branch; and
- (m) act in conjunction with the Branch President and at least two other members of the Branch Executive in all matters of urgency.

16.5 The Branch Assistant Secretary shall:

- (a) assist the Branch Secretary with the discharge of their duties; and
- (b) act on behalf of the Branch Secretary when he or she is absent.

16.6 The Branch Executive Members shall attend all meetings of the Branch Council and Branch Executive.

19 – PRISON BRANCHES

- 16.7 With the exception of the Branch Secretary, where a Branch Officer is unable to perform a duty of office, the Branch Executive may authorise one of the Executive Members or member of Branch Council to perform that duty.

17 – (removed)

18 - DUTIES OF DELEGATES TO BRANCH COUNCIL

Delegates to Branch Council shall:

- 18.1 distribute Branch Council agendas, minutes and other reports to members;
- 18.2 promote knowledge and an understanding of CPSU policies and activities;
- 18.3 advise the Branch Council and Branch staff of the views of the members in the electorate and any important issues or changes in their Sub-Branch;
- 18.4 make representations to management and take action in accordance with these rules and Branch policy to resolve matters affecting members in their Sub-Branch;
- 18.5 refer unresolved industrial matters, or matters affecting members outside the delegates' own Sub-Branch, to Branch industrial staff and/or to the Branch Council;
- 18.6 advise members of their industrial entitlements;
- 18.7 protect the working conditions and award rights of members in their Sub-Branch;
- 18.8 strengthen Union organisation in the electorate by recruiting potential members, and informing members about actions taken on their behalf;
- 18.9 administer the business of their Sub-Branch and preside at all Sub-Branch meetings; and
- 18.10 attend all meetings of the Branch Council.

19 – PRISON BRANCHES

- 19.1 There should be a Sub-Branch of the WAPOU Branch at all institutions and all members shall be assigned to a Sub-Branch. To form a Sub-Branch of the WAPOU Branch an application by financial members at an institution shall be forwarded to the Branch Council who shall have power to approve or reject such application.
- 19.2 Each Sub-Branch shall be administered by the Branch Delegate to Branch Council who shall preside at all meetings of the Sub-Branch, authorise the taking of fullest minutes of proceedings and attend to all correspondence.
- 19.3 Each Sub-Branch shall keep all documents and books relating to the Sub-Branch and shall further discharge other such duties as may be allotted from time to time by the Sub-Branch and pay the strictest attention to the interests of the Sub-Branch.
- 19.4 Each Sub-Branch shall pass resolutions for its own government, provided always that such resolutions do not conflict with the Rules, policies or decisions of any General Meeting, Branch Council or Branch Executive Meeting.

20 - MISCONDUCT

- 19.5 Each Sub-Branch shall keep a Standing Order Book to regulate the activities of the Sub-Branch, all orders contained in the Standing Order Book must have the prior approval of the Branch Council, who shall determine whether said orders are constitutional and in the best interests of the Union as a whole.
- 19.6 Sub-Branches shall have meetings when considered necessary or in accordance with established Sub-Branch policy in respect to such matters and the minutes of all such meetings to be forwarded to the Secretary within fourteen (14) days.
- 19.7 Sub-Branches shall have the authority, if considered necessary to elect a number of committee persons to assist the Branch Elected Delegate/s to conduct the affairs of the Sub-Branch. Elections for local Committee, where applicable, shall be held yearly at the Sub-Branch Annual Branch Meeting. All Sub-Branch elections must be by secret ballot.
- 19.8 Where in the opinion of the Branch Council a Sub-Branch fails to operate in the best interests of the WAPOU Branch or the Union as a whole, the Branch Council shall have the power to intervene in the affairs of the Sub-Branch and declare all positions vacant and conduct new elections to re-establish the Sub-Branch.
- 19.9 Each Sub-Branch shall designate one meeting a year as the Annual Sub-Branch Meeting. At that meeting the Sub-Branch shall elect the local committee (if any) and determine the number of members that will form a quorum for Sub-Branch meetings for the forthcoming twelve months, having regard to the membership at the Sub-Branch and the average attendance at Sub-Branch meetings.

20 - MISCONDUCT

- 20.1 A member of the WAPOU Branch may be charged for:
- (a) misappropriation of the funds of the Union;
 - (b) a substantial breach of the rules or duties of members;
 - (c) fraudulent, dishonest, disgraceful or other conduct deemed to injure the Union or to bring it into discredit;
 - (d) failing to declare a pecuniary or other conflict of interest; or
 - (e) gross neglect of duty.
- 20.2 Charges may be laid by:
- (a) a member of the WAPOU Branch;
 - (b) the Branch Council or Branch Executive; or
 - (c) a Branch Officer.
- 20.3 Charges shall be delivered to the Branch Secretary in writing and signed by the person laying the charge, detailing:
- (a) clearly and specifically the alleged misconduct;

21 - CENSURE MOTIONS

- (b) the persons involved;
 - (c) any witnesses;
 - (d) the date or dates of the occurrence of the offence; and
 - (e) particulars of alleged facts on which the charge is based.
- 20.4 As soon as a charge is laid under this rule, no discussion of the matter shall take place at any Branch meeting held under these rules until such time as the charge is finally dealt with.
- 20.5 The Branch Secretary shall:
- (a) within 7 days forward a copy to the member charged along with a written request for the member to reply in writing within 7 days of receipt, admitting or denying the charge or to make any comment thereon;
 - (b) following receipt of the reply, or the expiry of the time to reply, place the charge and any response before the Branch Executive; and
 - (c) offer the member the option to appear before Branch Executive to respond to the charge.
- 20.6 The Branch Executive shall determine that the:
- (a) charge does not warrant further action; or
 - (b) member be summoned to appear before the Branch Council to answer the charge.
- 20.7 Branch Council, if the member does not appear, or if dissatisfied with the member's explanation, may, subject to the rights of officers under Chapter C of the Federal rules:
- (a) expel the member, subject to revision at the next ensuing General Meeting of the WAPOU Branch;
 - (b) suspend the member for a certain time;
 - (c) inflict such fine not exceeding \$100.00 as may seem to meet the merits of the case; and/or
 - (d) censure the member.
- 20.8 No member who has been expelled shall be re-admitted without the prior consent of Branch Council, and such consent shall be subject to confirmation at the next General Meeting of the WAPOU Branch.

21 - CENSURE MOTIONS

- 21.1 A motion of 'no confidence', reprimand, or other form of censure of a Branch Officer or Delegate to Branch Council may be moved at a meeting of Branch Council provided that:
- (a) notice of such motion was given at a previous meeting;

23 - ELECTIONS

- (b) 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; and
 - (c) the officer is given adequate time and opportunity to reply to the allegation at the meeting.
- 21.2 A motion of 'no confidence', reprimand, or other form of censure of a Delegate to Branch Council may be moved at a meeting of the members of the Sub-Branch which the Branch Councillor represents provided that:
- (a) notice of such meeting, including the motion, is given to all members or delegates eligible to vote at least 21 days prior to the meeting;
 - (b) 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; and
 - (c) the officer is given adequate time and opportunity to reply to the allegation at the meeting.
- 21.3 A motion of 'no confidence' shall be carried if two-thirds of those present and entitled to vote, vote in favour.

22 - EXECUTION OF AGREEMENTS AND DOCUMENTS

- 22.1 Agreements and documents may be executed on behalf of the WAPOU Branch by the Branch Secretary whose signature shall be attested to by one other member of the Branch Executive and any such document so executed shall be and be deemed to be executed on behalf of the WAPOU Branch and with its authority.
- 22.2 Documents required to be executed in accordance with provisions of federal or state industrial legislation shall be executed by the Branch Secretary or by any person delegated for the purpose by the Branch Secretary unless otherwise specified by the relevant Act.

23 - ELECTIONS

- 23.1 Every election required by these rules shall be conducted in accordance with Chapter C of the Federal Rules and by the proportional preferential voting system as defined in the schedule to Chapter C of the Federal Rules.
- 23.2 WAPOU Branch policy may provide for candidates' information of a prescribed form to accompany ballot papers issued in the conduct of a WAPOU Branch election.
- 23.3 The Branch Secretary and Branch Assistant Secretary shall be elected by secret postal ballot of the whole of the financial membership of the WAPOU Branch for a term of four (4) years. Nominations for the position of Branch Secretary and Branch Assistant Secretary shall not be limited to financial members of the WAPOU Branch, but where a person from outside the Branch is elected to either position, they will subsequently be deemed to possess all the rights and privileges of a member of the Branch. Employees of the Associated Body are eligible to be nominated for and hold these positions.
- 23.4 The Branch President, Branch Vice-President and Branch Treasurer and three (3) Executive Members shall be elected by secret postal ballot of the whole of the financial membership of the WAPOU Branch for a term of four (4) years.

26 - REGISTER OF MEMBERS

- 23.5 A person holding the office of Branch President, Branch Vice-President, Branch Treasurer, or Executive Member shall not be an employee of the WAPOU Branch.
- 23.6 Delegates to Branch Council shall be elected for a four (4) year term by secret postal ballot by the financial members assigned to their Sub-Branch.

24 - STANDING ORDERS

Branch Council shall adopt Standing Orders governing the conduct of all meetings in the WAPOU Branch.

25 - TRANSITIONAL PROVISIONS

These rules come into effect upon their certification by the Fair Work Commission. The first elections for Branch Executive Officers, delegates to Branch Council, delegates to Federal Council and Federal Vice President and Branch Representative will be held within three months of these rules coming into effect.

- 25.2 Should these rules come into effect before 1 February 2014, the next elections for Branch Executive Officers will be held so that the result is declared no earlier than 1 May 2014 and no later than 30 June 2014 and thereafter in accordance with Rule 23.
- 25.3 Should these rules come into effect before 1 February 2014, the next elections for delegates to Branch Council will be held so that the result is declared no earlier than 1 May 2014 and no later than 30 June 2014, with the next election of delegates from the Northern Region Sub-Branches to be declared no earlier than 1 May 2016 and no later than 30 June 2016, and the next election of delegates from the Sub-Branches other than the Northern Region to be declared no earlier than 1 May 2018 and no later than 30 June 2018, and thereafter in accordance with Rule 8.
- 25.4 Should these rules come into effect before 1 February 2014, the next elections for delegates to Federal Council shall be held so that the result is declared no earlier than 1 June 2014 and no later than 25 August 2014 and thereafter in accordance with Rule 54B of Chapter C of the Federal Rules.
- 25.5 Should these rules come into effect before 1 February 2014, the next election for Federal Vice-President and Branch Representative shall be held so that the result is declared no later than 31 December 2014 and thereafter in accordance with Rule 55B of the Federal Rules.
- 25.6 Until the first elections in accordance with this rule are held and declared, management of the WAPOU Branch will be vested in the Executive of the Western Australian Prison Officers' Union.

26 - REGISTER OF MEMBERS

The WAPOU Branch shall keep a register of its members, showing their name and postal address, and shall keep all other records as are required by the *Fair Work (Registered Organisations) Act 2009* and the *Fair Work (Registered Organisations) Regulations 2009*.

END OF RULES