



## DECISION

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

### **Construction, Forestry, Maritime, Mining and Energy Union** (R2022/120)

MURRAY FURLONG

MELBOURNE, 6 FEBRUARY 2023

*Alteration of other rules of organisation.*

[1] On 18 October 2022 the Construction, Forestry, Maritime, Mining and Energy Union – Construction and General Division (CFMMEU) lodged with the Fair Work Commission a notice and declaration setting out particulars of alterations to its rules.

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

[3] The particulars set out alterations to Rules 37 and 42 of the CFMMEU’s Construction and General Division’s (the Division) rulebook.

[4] If certified, the alterations will abolish an office of Divisional Branch Assistant Secretary in the Division’s Western Australian Divisional Branch (the WA Branch). Currently, the WA Branch has two Divisional Branch Assistant Secretary offices.

[5] The alterations require further comment.

[6] When an organisation abolishes an office, the following principles apply;

- an organisation has the right to restructure itself as it sees fit;<sup>1</sup> however
- office holders generally have the right to fulfil their term of office;
- if an organisation decides to abolish an office, the abolition must be effected in accordance with the rules and must be bona fide;<sup>2</sup> and
- any abolition of office must not have an oppressive, unreasonable or unjust effect on members or applicants for membership having regard to the objects of the *Fair Work (Registered Organisations) Act 2009* (the Act).

#### **Whether the abolition of the office is bona fide**

[7] As stated in in paragraph [2], the alterations, have been made under the rules of the CFMMEU.

[8] The CFMMEU submits that the WA Branch “wishes to reduce the number of offices”<sup>3</sup> in its Committee of Management following the resignation of an official who held one of the two Divisional Branch Assistant Secretary offices. A resignation letter from that officer has been provided to the Commission<sup>4</sup> and that particular office has been vacant since the resignation.<sup>5</sup>

[9] Based on the materials submitted by the CFMMEU, I am satisfied that the abolition of this office was effected under its rules and is a bona fide decision.

**Are the alterations oppressive, unreasonable or unjust?**

[10] Section 142(1)(c) of the Act is apposite. Under that section, an organisation’s rules:

...

“(c) must not impose on applicants for membership, or members of the organisation, conditions, obligations or restrictions that, having regard to Parliament’s intention in enacting this Act (see section 5) and the objects of this Act and the Fair Work Act, are oppressive, unreasonable, or unjust; and

...”

[11] Any abolition of office must not have an oppressive, unreasonable or unjust effect on members or applicants for membership having regard to the objects of the Act. This does not require consideration of the effects of the rules “upon the personal fortunes of an individual officer or member but whether an oppressive, unreasonable or unjust burden has been imposed upon a significant number of members”.<sup>6</sup>

[12] The CFMMEU submits that other branches within the Division, namely the Australian Capital Territory Divisional Branch and South Australian Divisional Branch only have one Divisional Branch Assistant Secretary in their respective Committee of Managements. The CFMMEU has noted that this structure is “not unusual”<sup>7</sup> within the Division.

[13] I note that the other Divisional Branch Assistant Secretary office will not be affected by the alterations. That office will continue to exist.

[14] There is nothing before me to suggest that abolition of one of the Divisional Branch Assistant Secretary offices will impose oppressive, unreasonable or unjust conditions, obligations or restrictions on members. As such, the alterations are not contrary to s.142(1)(c) of the Act.

[15] In my opinion, the alterations comply with and are not contrary to the Act, the *Fair Work Act 2009*, modern awards and enterprise agreements, are not otherwise contrary to law and have been made under the rules of the organisation. I certify accordingly under subsection 159(1) of the Act.



GENERAL MANAGER

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<sup>1</sup> *Williams v Hursey* (1959) HCA 51, 103 CLR 30.

<sup>2</sup> *Saint v Australian Postal and Telecommunications Union & Ors* (1976) 13 ALR 649.

<sup>3</sup> Construction, Forestry, Maritime, Mining and Energy Union, 'Submissions of the CFMMEU', Submission in *R2022/120*, 18 October 2022, at [6].

<sup>4</sup> See *R2022/120*.

<sup>5</sup> Above n 4.

<sup>6</sup> *R2020/49* citing *Roughan v Australasian Meat Industry Employees Union* (1992) 36 FCR 536.

<sup>7</sup> Above n 4, at [8].

**From:** [Lucy Weber](#)  
**Sent on:** Tuesday, January 24, 2023 11:26:20 AM  
**To:** [Nicholas Kierce](#)  
**Subject:** RE: Application for alteration of Divisional Rules

Good morning Nicholas,

Thank-you for your email below.

In response to your questions:

1. Was notice of the Divisional Executive meeting, which was held on 12 October 2022, provided to members of the Divisional Executive?

Yes. Dates for Divisional Executive meetings are scheduled in advance at the beginning of each calendar year. In this case, members of the Divisional Executive were notified of the finalised schedule of meeting of the Divisional Executive by email on 1 March 2022. That email was sent by [REDACTED] on behalf of the Divisional Secretary, Dave Noonan, and included the meeting of 12-13 October 2022. In addition, an agenda and meeting papers (including in relation to the proposed rule change) were emailed to members of the Divisional Executive on 10 October 2022.

2. Assuming that notice was provided to members of the Divisional Executive, how was the notice of that particular meeting given?

As above. Notice was given in writing, over email.

Please let me know if you require any further information.

Kind regards,

**CFMEU**

Construction & General Division  
National Office



**Lucy Weber**  
Senior National Legal Office

540 Elizabeth Street  
Melbourne VIC 3000



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---

**From:** Nicholas Kierce [REDACTED]  
**Sent:** Tuesday, 24 January 2023 11:06 AM  
**To:** Lucy Weber [REDACTED]  
**Subject:** FW: Application for alteration of Divisional Rules

OFFICIAL

Good morning Lucy,

I refer to the above notification of rule alterations lodged on 18 October 2022 (R2022/120).

Before the alterations are referred to the General Manager for consideration, the Commission is seeking further information in relation to the rule altering procedure.

More specifically, the Commission is seeking confirmation on the following:

1. Was notice of the Divisional Executive meeting, which was held on 12 October 2022, provided to members of the Divisional Executive?
2. Assuming that notice was provided to members of the Divisional Executive, how was the notice of that particular meeting given?

A response to the above via a return email will suffice.

Thank you for your patience and please don't hesitate to contact me should you wish to discuss the above.

Regards,

**Nicholas Kierce**

Registered Organisation Section  
Fair Work Commission



**Fair Work Commission**  
Australia's national workplace relations tribunal

[REDACTED]  
[REDACTED]  
11 Exhibition Street, Melbourne, VIC, 3000

GPO Box 1994, Melbourne, Vic, 3001

The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

**This email was sent from Wurundjeri Woi Wurrung Country.**

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**From:** ROS  
**Sent:** Tuesday, 18 October 2022 3:24 PM  
**To:** Lucy Weber [REDACTED]  
**Subject:** RE: Application for alternation of Divisional Rules

OFFICIAL

Dear Lucy,

On behalf of the Fair Work Commission, I confirm receipt of the above application made under s.159(1) of the *Fair Work (Registered Organisations) Act 2009*.

The matter number for the application is R2022/120 and an action officer will be in touch with you in due course.

Best regards,

**Nara Lovisa**  
**Assistant Advisor**  
**Registered Organisations Section**



**Fair Work Commission**  
Australia's national workplace relations tribunal

[REDACTED]  
[REDACTED]  
11 Exhibition Street, Melbourne VIC 3000

GPO Box 1994, Melbourne VIC 3001

[www.fwc.gov.au](http://www.fwc.gov.au)

---

The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

---

**From:** Lucy Weber [REDACTED]  
**Sent:** Tuesday, 18 October 2022 10:52 AM  
**To:** ROS <[ROS@fwc.gov.au](mailto:ROS@fwc.gov.au)>  
**Subject:** Application for alternation of Divisional Rules

Good afternoon,

The Construction, Forestry, Maritime, Mining and Energy Union seeks certification of alterations to the rules of its Construction & General Division (105N-BWIU) in accordance with s159 of the *Fair Work (Registered Organisations) Act 2009* and r126 of the *Fair Work (Registered Organisations) Regulations 2009 (FW(RO) Regulations)*.

Please find **enclosed**:

- \* the Declaration of David Noonan, attaching a notice for the purposes of rr126(1)(a), (2) of the FW(RO) Regulations;

- \* submissions in support of the application; and
- \* a copy of the rule alterations track changed in word format.

A copy of the notice placed on the CFMEU's website, in accordance with r126(1)(b) of the FW(RO) Regulations, can be seen here: <https://cg.cfmeu.org/your-union/notices-members>.

Please note that the rule alterations do not affect any other Division of the union.

If you have any questions or require anything further, please contact me on the details below.

Kind regards,

# CFMEU

Construction & General Division  
National Office



**Lucy Weber**  
Senior National Legal Office

540 Elizabeth Street  
Melbourne VIC 3000



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**From:** [Lucy Weber](#)  
**Sent on:** Tuesday, October 18, 2022 11:52:10 AM  
**To:** [ROS](#)  
**Subject:** Application for alternation of Divisional Rules  
**Attachments:** [CE5BDA522E47333F08456869585A3DD91675665911813-2022.10.18.Declaration of David Noonan.pdf](#) (292.18 KB),  
[CE5BDA522E47333F08456869585A3DD91675665911813-2022.10.18.Submissions in support of rule change.pdf](#) (214.32 KB),  
[CE5BDA522E47333F08456869585A3DD91675665911813-current-rb-105nbwui - MARKED UP COPY OF RULES.docx](#) (177.03 KB)

Good afternoon,

The Construction, Forestry, Maritime, Mining and Energy Union seeks certification of alterations to the rules of its Construction & General Division (105N-BWIU) in accordance with s159 of the *Fair Work (Registered Organisations) Act 2009* and r126 of the *Fair Work (Registered Organisations) Regulations 2009 (FW(RO) Regulations)*.

Please find **enclosed**:

- the Declaration of David Noonan, attaching a notice for the purposes of rr126(1)(a), (2) of the FW(RO) Regulations;
- submissions in support of the application; and
- a copy of the rule alterations track changed in word format.

A copy of the notice placed on the CFMEU's website, in accordance with r126(1)(b) of the FW(RO) Regulations, can be seen here: <https://cg.cfmeu.org/your-union/notices-members>.

Please note that the rule alterations do not affect any other Division of the union.

If you have any questions or require anything further, please contact me on the details below.

Kind regards,

# CFMEU

Construction & General Division  
National Office



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Senior National Legal Office

540 Elizabeth Street  
Melbourne VIC 3000



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**DECLARATION OF AUTHORISED OFFICER in accordance with Regulation 126 *Fair Work (Registered Organisations) Regulations 2009***

**ALTERATION OF OTHER RULES OF ORGANISATIONS in accordance with section 159 of the *Fair Work (Registered Organisations) Act 2009***

I, David Noonan, Union Official, of Level 6, 540 Elizabeth Street, in the State of Victoria, am authorized to give this notice of particulars of alterations to the rules of the *Construction, Forestry, Mining and Energy Union, Construction and General Division and Construction and General Divisional Branches* (105N-BWIU) (**Divisional Rules**) and to make this declaration as required by Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009* (**FW(RO) Regulations**).

1. I am the National Divisional Secretary of the Construction & General Division of the Construction, Forestry, Maritime, Mining and Energy Union (**CFMMEU**). I have the necessary knowledge of the facts related to the information referred to within this Declaration.
2. Pursuant to the Divisional Rules, a majority of members of the Divisional Executive of the Construction & General Division of the CFMMEU have resolved to make rule alterations.
3. A true copy of the rule alterations approved by the Divisional Executive is **Attachment A**.

Endorsement of the Rule Changes by Divisional Executive

4. The rule alterations were approved by a valid majority of the votes cast at a meeting of the Divisional Executive held on 12 October 2022.
5. The steps required for calling an Executive Divisional meeting are set out in rule 9(17). In accordance with that rule, the meeting on 12 October 2022 was:
  - a. a scheduled meeting of the Divisional Executive; and
  - b. quorate.

Incumbent officers

6. Under the rule alteration, one of the two current offices of Assistant Secretary in the Western Australia Divisional Branch will be abolished.
7. One of the two offices of Assistant Secretary of the Western Australian Divisional Branch has been vacant since 29 September 2022, following the resignation of Troy Smart. Mr Smart's resignation was notified to the Registered Organisations Commission on 4 October 2022 in accordance with s.230 of the RO Act and regulation 147 of the Regulations.
8. **Attachment B** is a copy of Mr Smart's resignation letter.

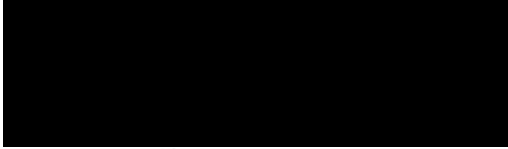
Other matters

9. A notice has been placed on the CFMMEU's website, in accordance with rr.126(1)(a),(2) of the FW(RO) Regulations, which can be seen at the link <https://cg.cfmeu.org/your-union/notices-members>.



10. The alterations were made in accordance with the rules of the CFMMEU.

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



Signed:

Date: 18 October 2022

**David Noonan**

National Secretary – Construction & General Division  
Construction, Forestry, Maritime, Mining and Energy Union

## ATTACHMENT A

The Divisional Executive resolves to amend Divisional rules 37 and 42 as follows:

### **37 – OFFICERS**

...

- (iv) *Without affecting the term of office of persons holding office as Divisional Branch Officers immediately prior to the date of certification of this sub-rule, the officers of the Western Australia Divisional Branch shall, on and from 2 January, 2001, or the declaration of the election in 2000, whichever is the later, consist of the Divisional Branch President, the Divisional Branch Senior Vice President, the Divisional Branch Vice President, the Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, three (3) Divisional Branch Trustees, the Divisional Branch Treasurer and Divisional Branch Management Committee members, together with such number of Organisers as the Divisional Branch Management Committee from time to time determines.*

*Provided however that on and from the date of certification of this amendment there shall be only one (1) Divisional Branch Assistant Secretary in the Western Australian Divisional Branch.*

...

### **42 – DIVISIONAL BRANCH MANAGEMENT COMMITTEE**

(a) ...

- (iv) *In Western Australia the Divisional Branch Management Committee shall consist of the Divisional Branch President, the Divisional Branch Senior Vice President, the Divisional Branch Vice President, the Divisional Branch Secretary, ~~two (2) the~~ Divisional Branch Assistant Secretaryies, the Divisional Branch Treasurer, three (3) Divisional Branch Trustees and five (5) Divisional Branch Management Committee members.*

## ATTACHMENT B

29 September 2022.

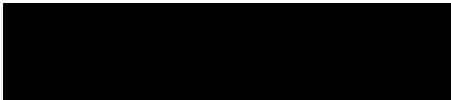
### **Resignation of Troy Kingsley Smart**

I, Troy Kingsley Smart, do hereby resign from my positions as the elected Assistant State Secretary with CFMMEU Construction and General Division WA branch and CFMEUW with effect from 29 September 2022.

I would like to take this opportunity to thank the executive / committee of management, rank and file and staff for there support over the past 14 years.

The struggle will continue, and I believe the branch is well placed to take up the fight to the employers in our industry.

In Solidarity,



Troy Smart  
Assistant State Secretary

**ALTERATION OF OTHER RULES OF ORGANISATIONS in accordance with section 159 of the *Fair Work (Registered Organisations) Act 2009***

**SUBMISSIONS OF THE CFMMEU**

1. The Construction & General Division of the Construction, Forestry, Maritime, Mining and Energy Union (**CFMMEU**) seeks certification of alterations to the registered rules of the *Construction, Forestry, Mining and Energy Union, Construction and General Division and Construction and General Divisional Branches (the C&G Divisional Rules)*.
2. The effect of the rule alteration is to abolish one of the two offices of Divisional Branch Assistant Secretary in the Western Australian Divisional Branch, so that only one such office shall exist.
3. The following principles are relevant to the restructure of organisations:
  - a. an organisation has the right to restructure itself as it sees fit<sup>1</sup>;
  - b. however, if an organisation seeks to abolish an office mid-term the abolishment must be effected in accordance with the rules and must be bona fide<sup>2</sup>; and
  - c. any abolition of office must not have an oppressive, unreasonable or unjust effect on members or applicants for membership (in the plural) having regard to the objects of the legislation<sup>3</sup>.

**The change is effected in accordance with the rules and is bona fide**

4. The rule alteration in this matter has been effected in accordance with the Divisional Rules. As set out in the Declaration of David Noonan, the resolution was passed at meeting of the Divisional Executive held on 12 October 2022. That meeting was duly convened in accordance with rule 9(17) of the Divisional Rules, and quorate. Accordingly, the alteration was made on 12 October 2022.
5. A notice has been posted on the CFMMEU's website in accordance with r126(1)(a) of the FW(RO) Act and can be seen at <https://act.cfmeu.org.au/legal-notices>.
6. The rule alteration has been sought for a bona fide reason. Specifically, the Western Australian Divisional Branch wishes to reduce the number of offices following the resignation of the incumbent officer. The Office that will be abolished is currently vacant.

**The change is not oppressive, unreasonable or unjust effect on members or applicants for membership**

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<sup>1</sup> *Williams v Hursey* (1959) HCA 51, 103 CLR 30]

<sup>2</sup> *Saint v Australian Postal and Telecommunications Union & Ors* (1976) 13 ALR 649, per the majority

<sup>3</sup> *Roughan v Australasian Meat Industry Employees' Union* (1992) 36 FCR 536

7. The removal of the second Divisional Branch Assistant Secretary office is consistent with the C&G Divisional Rules, and does not have an oppressive, unreasonable or unjust effect on either members or applicants for membership.
8. In *Roughan v AMIEU*<sup>4</sup> it was held that an assessment of whether or not a rule change would be oppressive, unreasonable or unjust is not concerned with the effect of the rules of an organisation upon the personal fortunes of an individual member. Notwithstanding this, we note:
  - a. the current office is vacant;
  - b. there remains one office of Assistant Secretary in the Western Australia Branch;
  - c. the C&G Division has 6 Divisional Branches. Two other branches (the ACT and South Australian Divisional Branches) have only one Divisional Branch Assistant Secretary office. Accordingly, the change is not unusual within the structure of the Division;

A similar rule change was made in the case of the South Australian Branch in matter R2015/260, the effect of which was to reduce the number of Divisional Branch Assistant Secretaries in the South Australian Divisional Branch from two to one.

9. We also note that the rule change does not offend s141(1)(c) of the FW(RO) Act, which is reflected in r11(a)(i) of the C&G Divisional Rules. Those provisions are concerned with a dismissal or removal from an office that is to continue after such a dismissal or removal<sup>5</sup>. They are not engaged here because the effect of the rule change is not to dismiss or remove any office, and r11(a)(i) of the Divisional Rules remains unchanged.
10. For the purposes of s159(1), the rule alterations also comply with the FW(RO) Act, the *Fair Work Act 2009* and any relevant modern award and enterprise agreement, and are not otherwise contrary to the law.

CFMMEU  
Construction & General Division  
18 October 2022

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<sup>5</sup> See *Saint v Australian Postal Telecommunications Union* (1976) 30 FLR 385, per Dunphy and Evatt JJ at 393 which considered s133(1)(f) of the *Conciliation and Arbitration Act* (Cth); also see *Roughan v AMIEU* per Wilcox J at 542-535 which considered s195(1)(c) of the *Industrial Relations Act 1988* (Cth). The current s141(1)(c) is identical in substance to these predecessor provisions.

105N-BWIU: Incorporates alterations of 25 January 2022 [R2021/181 & R2021/215]  
(replaces rulebook dated 25 May 2021 [R2021/74])

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 75 both inclusive contain a true and correct copy of the registered rules of the Construction, Forestry, Mining and Energy Union, Construction and General Division and Construction and General Divisional Branches

DELEGATE OF THE GENERAL MANAGER  
FAIR WORK COMMISSION

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

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## CONSTRUCTION AND GENERAL DIVISION RULES

### 1 – NAME

The name of the Division shall be "the Construction and General Division".

### 2 – ELIGIBILITY FOR DIVISION

Every member who is a member of the union by virtue of Rule 2 Sub-rules (A), (B) and (N) of the National Rules shall belong to this Division.

Further, every member who is a member of the Union by virtue of Rule 2 sub-rule (E) of the National Rules, shall also be eligible for membership of this Division.

Further provided that in the State of South Australia, every member who is a member of the Union by virtue of Rule 2(D) shall belong to this Division.

### 3 – DEFINITIONS

Unless the context otherwise indicates, in these Rules:

"BRANCH" shall mean a Branch of the Union set up in accordance with the rules of the Union.

"commencement day" means the date provided by rule 69(iB)(c)

"CONSTRUCTION AND GENERAL DIVISIONAL BRANCH" or "DIVISIONAL BRANCH" shall mean a branch of this division established in accordance with these rules.

"FINANCIAL MEMBER" shall mean any member who has paid all subscriptions, fines, levies and dues in accordance with the rules of the Union and in relation to Construction and General Division is a member of this Division.

"MEMBER" shall mean a member of Construction and General Division and membership shall have a corresponding meaning.

"MEMBERSHIP YEAR" shall, for the purpose of Divisional Rule 19 herein, mean the period encompassing the two consecutive six month periods to which membership contributions are ordinarily attributable (i.e. 1 April to 30 September and 1 October to 31 March).

"C.O.M." (Committee of Management) or "Executive" shall be synonymous and shall mean in relation to a divisional branch the controlling and administrative body of such Divisional Branch.

"PREFERENTIAL VOTING" shall mean a system of voting in which the voter shall place the number 1 in the square opposite the name of the candidate for whom the member votes as first preference and shall place the number 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of all the remaining candidates so as to indicate the order of the members preference for them.

In a ballot by the preferential system the valid ballot papers shall be separated into separate parcels, each such parcel containing all those papers on which a first preference is indicated for the same candidate.

If on the first count a candidate receives an absolute majority of first preference votes of total valid votes cast the candidate shall be declared elected.

If no candidate has received an absolute majority of first preference votes the candidate with the fewest first preference votes shall be excluded and the ballot papers on which a first preference is indicated for such candidate shall be counted to the remaining candidates next in the voters' order of preference.

If a candidate has then an absolute majority of votes he shall be elected, but if no candidate then has a majority of votes, the process of excluding the candidate who has the fewest votes and the distribution of the voters' preferences shall continue until one candidate has received an absolute majority of votes.

In cases where more than one position is to be filled the numbers placed opposite the candidates' names up to the number of positions to be filled shall be first preference votes and the procedure in respect to the distribution of preferences shall be the same as is above prescribed where a ballot is for a single position.

The candidate or candidates as the case may be, who has received an absolute majority of votes shall be elected.

“QBLDB” means the Queensland Builders Labourers Divisional Branch.

“QNTDB” means the Queensland Northern Territory Divisional Branch.

“UNFINANCIAL DIVISIONAL BRANCH” shall mean a Branch of the Division that has more than two of the monthly capitation payments or part thereof outstanding to the Divisional Office as at the relevant date applicable in the rule where that expression is used in these Rules.

#### **4 – MEMBERSHIP**

- (i) A candidate for membership of the Division may make application to the Divisional Branch covering the area in which he or she resides or is employed, and such application shall be made and dealt with in the manner and subject to the conditions including conditions as to any probationary period required by the rules of the Divisional Branch to which it is made. Notwithstanding anything herein prescribed Divisional Branch rules may provide other methods of applying for membership.
- (ii)
  - (a) Candidates shall supply such information as to their identity and occupation, and such other particulars as to their eligibility for membership and the benefits of membership as the Divisional Branch may require, and shall, when requested, fill in and sign such application form as may be provided.
  - (b) The application form referred to above may be the form previously used by any union which has amalgamated to form this Union.
- (iii) The Divisional Branch Secretary or other officer authorised under these or any other rules may refer any application for membership to the Divisional Executive for consideration or decision. Where in any case the admission to membership of any person applying is rejected such person shall have the right to appeal to the Divisional Executive the decision of which shall be final.
- (iv) A member shall be deemed to be attached to the Divisional Branch covering the locality in which he resides, or, in the case of members employed in an industry for which a Divisional Branch has been established, then to such Divisional Branch. Where there is not a Divisional Branch covering the locality in which a member resides or the industry in which the member is employed, the member shall be attached to such Divisional Branch in either this Division or any other Division as the Divisional Executive of this Division may direct.

Any person who, as at 1 April 2010, is a member of the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch of the Construction and General Division shall be and become a member of the Divisional Branch of the Construction and General Division covering the locality in which they reside and shall have the same financial membership status within that Divisional Branch as they did within the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch at the time of the transfer. Any outstanding membership contributions owing to the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch as at 1 April 2010 shall become an amount owing to the Divisional Branch into which such members are transferred pursuant to this rule. Further, the period of membership of the Divisional Branch into which any such members are transferred shall be the length of time that such persons have been members of the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch and the former The Federated Brick Tile and Pottery Industrial Union of Australia (FBTPU). Further, life membership or honorary membership validly conferred by the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch or the FBTPU upon a member shall be recognised as such within the Divisional Branch into which such members are transferred.

- (v) Any person who at the date of the certification of this Sub-Rule is a member of the Australian Building Construction Employees and Builders Labourers Federation, Tasmanian Branch (herein referred to as the BLF (Tasmania)), a Union of employees registered as such under the Industrial Relations Act (Tasmania) shall be and become a member of the Union without payment of any entrance fee and while financial in the BLF (Tasmania) shall be treated as financial in the Union and such membership shall commence on and from the date of the establishment of the Construction Labourers Divisional Branch.

Further, the length of membership of said member shall be the length of time that member has been a member of the BLF (Tasmania) except in the case of persons who have transferred to the BLF (Tasmania) from another Branch of the CFMEU covering labourers, in which case the length of membership shall be the length of time in the BLF (Tasmania) and the other CFMEU Divisional Branch, together.

Provided further that any member of the BLF, Tasmania may, within twenty one (21) days of the certification of this Sub-Rule, opt not to join the CFMEU, by notice, in writing, addressed to the Secretary of the Building Unions Divisional Branch in the State of Tasmania.

All persons who were previously members of the BLF, Tasmania and have been admitted to membership in accordance with this Sub-Rule shall be advised in writing of their admission to membership as soon as practicable thereafter and shall be informed of the financial obligations arising from membership and the circumstances, and the manner, in which such member may resign from the organisation.

- (vi) Any person who at 31 March 1994 is a member of the Australian Building Construction Employees and Builders Labourers Federation (Victorian Branch) (BLF Victoria), the Australian Builders' Labourers' Federated Union of Workers - Western Australian Branch (ABLF WA), the Australian Building and Construction Workers' Federation (BLF SA), or the Australian Building, Construction Employees and Builders' Labourers' Federation (Queensland Branch) Union of Employees (BLF QLD) shall, to the extent that such person is eligible, be and become a member of the Union without payment of any entrance fee and while financial in any of the aforesaid unions or branches of the BLF shall be treated as financial in the Union and such membership shall commence on and from 31 March 1994. Further, the length of membership of the said member shall be the length of time that such member has been a member of any of the aforesaid unions or branches of the BLF together with any continuous membership of the Union which membership was continuous with the period of membership of any of the aforesaid unions or branches of the BLF either before or after the date of transfer. Provided that no member transferring by virtue of this rule shall by reason only of that transfer enjoy any right or suffer any liability conferred on a member of the CFMEU by reason of membership at a particular date prior to 31 March 1994.

All persons who were previously members of the BLF, the ABLF WA, the BLF SA, the BLF QLD and are admitted to membership in accordance with this Sub-Rule shall be advised in writing of their admission to membership as soon as practicable thereafter and shall be informed of the financial obligations arising from membership and the circumstances, and the manner, in which such member may resign from the organisation. A person who is notified of their admission to membership in accordance with the Sub-Rule may, in writing, within seven days of the notification thereof, signify their desire not to be a member of the Union and, on receipt of such signification, they shall not be treated as a member of the CFMEU, but, to the extent that moneys are owed to the BLF, such money shall be a debt owing to the CFMEU.

- (vii) Any person who, as at 1 April 2012, is a member of the South Australian District Branch of the Mining and Energy Division shall be and become a member of the South Australian Divisional Branch of the Construction and General Division and shall have the same financial membership status within that Divisional Branch as they did within the South Australian District Branch of the Mining and Energy Division at the time of the transfer. Any outstanding membership contributions owing to the South Australian District Branch of the Mining and Energy Division as at 1 April 2012 shall become an amount owing to the South Australian Divisional Branch of the Construction and General Division pursuant to this rule. Further, the period of membership of the South Australian Divisional Branch of the Construction and General Division shall be the length of time that such persons have been members of the South Australian District Branch of the Mining and Energy Division. Further, life membership or honorary life membership validly conferred by the South Australian District Branch of the Mining and Energy Division upon a member shall be recognised as such within the South Australian Divisional Branch of the Construction and General Division.
- (viii) Any person who, at the date of certification of this sub-rule, is a member of the Victorian Divisional Branch or the Tasmanian Divisional Branch shall be and become a member of the Victoria-Tasmania Divisional Branch and shall have the same financial membership status within that Divisional Branch as they did within their former Divisional Branch at the time of their transfer. Any outstanding membership contributions owing to the Tasmanian Divisional Branch or the Victorian Divisional Branch as at the date this rule takes effect, shall become an amount owing to the Victoria-Tasmania Divisional Branch. Further provided that the period of membership of the Victoria-Tasmania Divisional Branch shall be the same as that held by such members within the Victorian Divisional Branch or Tasmanian Divisional Branch, as the case may be.
- (ix) Any person who, at the date of certification of this sub-rule, is a member of the QBLDB shall become a member of the QNTDB and shall have the same financial membership status within that Divisional Branch as they did within their former Divisional Branch at the time of their transfer. Any outstanding membership contributions owing to the QBLDB as at the date this rule takes effect shall become an amount owing to the QNTDB. Further provided that the period of membership of the QNTDB shall be the same as that held by such members within the QBLDB.

## **5 – ENTRANCE FEES**

Applicants for membership of Construction and General Division shall pay on application an entrance fee in accordance with Divisional Branch rules.

## **6 – CONTRIBUTIONS**

1. The annual contribution payable by each member shall be fixed by the Divisional Executive on the basis that such contribution shall be no less than 1% of the carpenter base rate in the Building and Construction General On-Site Award 2010 or any award of Fair Work Australia replacing same, multiplied by 52, provided that the Divisional Executive may fix some other rate.

For the purposes of the immediately preceding sentence and Rule 32(b) herein, base rate shall mean the sum of the award base rate, supplementary payment and arbitrated safety net adjustments as determined by the relevant industrial body or tribunal.

2. Any member who has failed to pay the entrance fee, all contributions, levies and fines imposed in accordance with these or the Divisional Branch rules on or before the date specified in the Divisional Branch rules, shall be deemed to be unfinancial, and shall not be eligible, provided that Divisional Branch rules may provide that such members or some class or classes of such members may vote in a ballot, to receive any benefits, participate in any deliberations, propose or second any new applicant member for admission, or exercise any authority or any membership rights.

A member shall be deemed to be financial immediately upon payment of all arrears outstanding. Divisional Branch rules may provide that unfinancial members shall not be entitled to funeral, accident or any other benefits or to exercise any of the rights of members under Divisional Branch rules.

## **7 – SPECIAL MEMBERS**

1. The Divisional Executive or the Divisional Branch Executive may fix a special or different rate of contribution and/or entrance fee for any class of members and any member within that class shall, on compliance with those conditions and subject to any rule, other than rules 5, 6 and/or 32(b), be entitled to all the benefits of membership.

## **8 – SUPREME GOVERNING BODY IN DIVISION**

- (i) The supreme governing body of the Division shall be the Divisional Conference.
- (ii) The Divisional Conference shall consist of delegates including full time Divisional Officers elected as delegates. Provided that Divisional Branch Secretaries by virtue of being elected as such shall automatically be the Divisional Branch delegate or one of the Divisional Branch delegates to Divisional Conference.

Provided further that existing elected officers of the Divisional Executive who are retiring from office and who have not been re-elected as delegates to Divisional Conference shall be entitled to attend the Divisional Conference which elects their successors and shall be entitled to all rights of a Conference delegate other than nominating and voting on any matter. Further provided that, if not otherwise a delegate to Divisional Conference by virtue of this sub-clause, members of the Divisional Executive shall, ipso facto, be delegates to the Divisional Conference and treated, in all respects, as delegates in the same way as any other member of the Divisional Executive.

Provided that any Delegate to the Divisional Conference from a Divisional Branch that has more than two of the monthly capitation payments or part thereof and/or interest thereon for which the Divisional Branch is liable under sub-rule 14(i) outstanding to the Divisional Office as at the date of any meeting of the Divisional Conference, shall not be entitled to attend any Divisional Conference (unless at the express invitation of one of the Divisional Officers), and in any event, shall not be entitled to move, amend or vote at any such meeting.

Any Assistant Divisional Branch Secretary designated for Painters shall be delegates to the Divisional Conference.

The Divisional Branch Assistant Secretary of the South Australian Divisional Branch shall, by virtue of the holding of such office, be a member of the Divisional Conference.

After 2 January 1997 the Assistant Secretary (Plasterers) of each Divisional Branch which has such a position shall by virtue of that office be a delegate to Divisional Conference.

Provided that if at any time there is no longer an office of Divisional Branch Assistant Secretary (Plasterer) in the Australian Capital Territory Divisional Branch, either of the following as determined by the ACT Branch Committee of Management at least three (3) months prior to the opening of nominations as prescribed by r.38 of these Rules, shall be a delegate to Divisional Conference:

- the Divisional Branch Assistant Secretary; or
- a delegate to be elected at the divisional branch elections as prescribed by r.38 of these rules.

For the avoidance of doubt, on and from the date of certification of this sub-rule, any casual vacancy occurring in the relevant National Conference Delegate position as a result of death, resignation, retirement, dismissal or for any other reason shall be filled either ex officio or via an election under Divisional Rule 38(cc) at the discretion of the ACT Branch Committee of Management.

The Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch (and its predecessor) shall, until 1 January 2013 only, be entitled to two delegates to the Divisional Conference of the Construction and General Division. The two delegates shall be the persons holding the offices of Industry Divisional Branch Secretary and the Industry Divisional Branch President (honorary) of the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch immediately prior to the date of certification of this paragraph of sub-rule (ii).

- (iii) Except as provided for in sub-clause (vi) and in sub-rule (viA) Divisional Branches shall be entitled to elect, including the Divisional Branch Secretary, one delegate for the first two (2) thousand members or part thereof and one delegate for each succeeding two (2) thousand members or part thereof.
- (iv) For the purpose of this Rule the formula which shall apply to determine the number of members of a Divisional Branch shall be to divide the amount of Divisional Branch income referred to in Rule 14 (i) received each of the three years prior to the elections by the amount of the annual contribution for that year. Those amounts to be totalled then divided by three to obtain the average number of members on which the Divisional Branch is entitled to elect delegates.

Provided that where the Divisional Branch has not existed for three (3) years the divisor shall be twice the number of half years up to a maximum of six (6) that the Divisional Branch has existed and the Divisional Branch income referred to shall be for the corresponding period.

Further provided that where a Divisional Branch has been the subject of changes in its structure or membership by virtue of a restructuring in whole or part, or an amalgamation, which restructuring or amalgamation has occurred less than three years prior to the elections referred to in the first paragraph of this sub-rule, the Divisional Branch shall be treated, for the purposes of this sub-rule, as if it came into existence on the last such change in structure or amalgamation, and the calculation shall be made in accordance with the immediately preceding proviso.

The Divisional Secretary and the Divisional Assistant Secretary/s shall have the same voting and other rights as other delegates to the Conference.

The existing elected officers of the Divisional Executive shall remain in office until the election of their successors.

- (v) Should any delegate die or resign or otherwise cease to be a delegate, or for any other reason a Divisional Conference delegate's position is not filled, thus causing an extraordinary vacancy, the Divisional Branch Executive of the Divisional Branch of which the member is a delegate may forthwith cause an election for another member or where the unexpired part of the term of that vacant or unfilled office does not exceed three quarters of the term of office the Divisional Branch Executive may appoint another member to be the delegate of the Divisional Branch in place of the delegate who is deceased or has resigned or otherwise ceased to be a delegate or to fill the otherwise vacant position. Provided such delegate so elected shall hold office only for the residue of the term of the predecessor.
- (vi) Divisional Branches, may where elected delegates to Divisional Conference agree, arrange multiple voting representation at a Divisional Conference by notifying the Divisional Secretary prior to the beginning of the Divisional Conference of the number of delegates to be credentialed and of the arrangements for proxy voting to be adopted by that/those delegate/s to Divisional Conference.

Where a delegate is unable to attend a meeting of the Divisional Conference or any part thereof that delegate may appoint another elected delegate to Divisional Conference from the same Divisional Branch as proxy to act in his stead. Where a delegate is the only representative of a Divisional Branch and is to be absent from Divisional Conference the delegate may appoint an elected delegate from another Divisional Branch of this Division, or any other Divisional Conference member as the delegate's proxy.

- (viA) For the purposes only of elections for the Australian Capital Territory Divisional Branch offices of delegates to Divisional Conference the electorate in respect of the delegate to Divisional Conference provided for in this sub-rule comprises all of the members of the Division who are residing or employed in the Northern Territory and who are members of the Australian Capital Territory Divisional Branch. For the avoidance of doubt it is provided that for the purposes of calculating the entitlement of the Australian Capital Territory Divisional Branch pursuant to sub-rules (iii) and (iv) of this Rule the members of that Branch who are residing or employed in the Northern Territory shall not be included and all other provisions affecting the entitlement of that Branch to delegates to Divisional Conference shall continue to apply.

Forthwith after the commencement of this sub-rule an election shall be conducted by and from the members of the Australian Capital Territory Divisional Branch who are residing or employed in the Northern Territory for the office of "ACT Divisional Branch Northern Territory delegate to Divisional Conference". On and from the declaration of that election the delegate elected shall have all the rights and responsibilities of delegates to Divisional Conference who took office on 1 January 2005 and shall hold office until the expiry of the terms of office of all other delegates to Divisional Conference under these Rules. Thereafter the delegate elected pursuant to this sub-rule shall hold office for the same term as all other delegates to Divisional Conference.

From 2 January 2009 or the declaration of the Divisional Branch elections in 2008, whichever is the later, the office of ACT Divisional Branch Northern Territory delegate to Divisional Conference shall cease to exist and a new office of Western Australian Divisional Branch (Northern Territory) delegate to Divisional Conference shall be created in lieu thereof. The provisions of the preceding two paragraphs of this sub-rule shall apply, *mutatis mutandis*, with respect to the office of Western Australian Divisional Branch (Northern Territory) delegate to Divisional Conference.

From 2 January 2013 or the declaration of the Divisional Branch elections in 2012, whichever is the later, the office of Western Australian Divisional Branch (Northern Territory) delegate to Divisional Conference shall cease to exist and a new office of Queensland Northern Territory Divisional Branch (Northern Territory) delegate to Divisional Conference shall be created in lieu thereof. The provisions of the first two paragraphs of this sub-rule shall apply, *mutatis mutandis*, with respect to the office of Queensland Northern Territory Divisional Branch (Northern Territory) delegate to Divisional Conference.

- (vii) Notwithstanding anything to the contrary in the preceding sub-rules, in the case of the Victoria-Tasmania Divisional Branch the Divisional Branch Secretary and the Divisional Branch Assistant Secretary (FEDFA) shall, by virtue of being elected or otherwise holding such offices, automatically be among the Victoria-Tasmania Divisional Branch delegates to Divisional Conference. These ex-officio positions shall occupy the first two of the allocated number of delegates for the Victoria-Tasmania Divisional Branch calculated in accordance with sub-rule (iii) hereof.
- (viiA) Those members of the QNTDB and the QBLDB who held office as Divisional Conference Delegates on the day preceding the commencement day shall continue in office and be Divisional Conference Delegates for the QNTDB.
- (viii) The method of calling nominations and the election of Divisional Branch delegates to Divisional Conference shall be under the provisions of Rule 17 of the National Rules.

Full time Divisional Officers, (Divisional Secretary, Divisional Assistant Secretaries) and Divisional President and full-time National Officers, may nominate in such elections, either in the Divisional Branch first elected from, or another Divisional Branch provided that each Divisional Officer shall notify his/her intentions in writing to the Divisional Branch Secretary concerned prior to the date of calling for nominations in such elections.

Provided further that the number of Divisional Branch delegates to Divisional Conference shall, in relation to any Divisional Branch in which an officer or officers referred to in the immediately preceding subparagraph nominates, be increased by the number of such officers nominating in that Divisional Branch.

- (ix) Six (6) delegates shall form a quorum of the Divisional Conference.
- (x) Unless otherwise determined by the Divisional Executive, the Divisional Executive shall meet the cost of an economy plane fare for delegates and Divisional Officers attending Divisional Conference. All other expenses for delegates other than full time Divisional Officers shall be met by the Divisional Branches concerned.
- (xi) The Divisional Conference shall have power:
  - (a) To take such steps, subject to the rules of the Union, as it shall think fit to carry out all or any of the objects of the Union as they relate to the Division and to raise or spend such funds as are necessary to carry out the objects.
  - (b) To decide the general policy of the Division and to take steps to enforce the carrying out of such policy.
  - (c) Subject to any other rule to impose penalties, (i.e. fines not exceeding the sum of twenty dollars, suspension, expulsion or dismissal from office), on officers, members, representatives, committee members or delegates of the Division, for knowingly refusing to comply with the rules of the Union or decisions of the Divisional Conference, Divisional Executive or any Divisional Branch relevant to such person.

Provided that a copy of the rules, the decisions of Divisional Conference, Divisional Executive or relevant Divisional Branch are available to members at each Divisional Branch office.



No penalty shall be imposed unless -

- (i) The officer, member, representative, committee member or delegate concerned has been summoned to attend the meeting at least seven (7) days prior to the meeting;
- (ii) Particulars are given in the summons of the offence alleged, including the time and place it is alleged the offence was committed;
- (iii) He/she is afforded an opportunity of being present at the hearing and of being heard in their own defence, including an opportunity to cross-examine and to give and call evidence.

Period of suspension imposed under this rule shall not exceed six (6) months.

- (d) To hear and decide any appeal from a Divisional Branch on an issue concerned solely with a matter affecting this Division, from a Divisional Branch or Sub-Branch or member. Any appeal from a member must be forwarded through the Divisional Branch Committee.  
  
Reasonable notice of the time and place of the hearing shall be given to all parties involved, who shall be given an opportunity of being heard. Provided that in the case of an appeal from a Branch of the Union, the Branch shall have the right to appeal any decision of the Divisional Conference or Divisional Executive to the National Executive.
- (e) To settle disputes between Divisional Branches. Any Divisional Branch concerned shall be given reasonable notice of the meeting and an opportunity of being heard before any settlement is effected.
- (f) To deal with and decide any matter submitted to it by any Divisional Branch of the Division.
- (g) To confirm, over-rule or otherwise deal with decisions of the Divisional Executive or Divisional Branches of this Division.
- (h) To establish Divisional Branches of the Division and subject to Rule 11 to close any Divisional Branch and deal with any Divisional Branch in a like manner as the Divisional Executive may.
- (j) To hear and decide any appeal from the Divisional Executive. Reasonable notice of the time of the place of the hearing of such appeal shall be given to all parties involved, who shall be given an opportunity of being heard and/or placing submissions before the Divisional Conference.
- (k) To make, alter and rescind rules of this Division or any Divisional Branch of this Division
- (l) To elect Divisional Trustees as set out in Rule 9.
- (xii) A Divisional Conference shall be held biennially at such place and time as the Divisional Executive shall decide.
- (xiii) The business to be dealt with by Divisional Conference shall be shown on the agenda paper, but matters may be added to the agenda paper if agreed to by the Divisional Conference in session. Any matter appearing on the agenda paper may be amended by Divisional Conference.
- (xiv) Notice of every Divisional Conference, together with a copy of the agenda paper, shall be posted by the Divisional Secretary to each Divisional Branch Secretary at least one (1) week before the date of such meeting but failure to notify will not of itself vitiate a meeting. Notice shall also be posted to all delegates so as to give them at least the notice provided for herein.

- (xv) A copy of the minutes containing all decisions and business of the Divisional Conference shall be forwarded to each Divisional Branch Secretary within one month of the conclusion of each Divisional Conference. Any member of the division may, upon request to the Divisional Branch Secretary, inspect a copy of the minutes of each Divisional Conference at the Divisional Branch Office during the ordinary hours in which the Divisional Branch Office is open.
- (xvi) The Divisional Secretary on receipt of resolutions from a majority of Divisional Branches or on receipt of a petition signed by not less than 10 percent of the financial members of the Division calling for a Special Divisional Conference shall call such Divisional Conference within thirty (30) days. Members of Divisional Conference shall be given seven (7) days' notice if practicable.

Notice shall be given by telephone, letter, facsimile, email and/or any other form of communications.

The Divisional Secretary may at any time thought fit conduct a postal, telephonic, facsimile, electronic and/or any other form of vote of members of Divisional Conference to obtain a decision on any matter provided that any Delegate from a Divisional Branch that is an Unfinancial Divisional Branch as at the date of the vote or the date of conclusion of a vote, by the above manners of obtaining a decision shall not have his or her vote counted or shall not be able to vote, as the case may be.

- (xvii) The Divisional Conference shall have and exercise all of the powers of the Divisional Executive and shall deal with any matter or matters referred to it by the Divisional Executive.

Where any matter or matters is/are referred to the Divisional Conference by the Divisional Executive in accordance with this sub-paragraph, the Divisional Secretary may call a Special Divisional Conference in the same way as if he/she had received a resolution from a majority of Divisional Branches or a petition signed by not less than 10 per cent of the financial members of the Division calling for such Conference, in accordance with sub-paragraph xv) herein. In all other respects the provision of sub-paragraph xv) herein shall apply.

## 9 – DIVISIONAL EXECUTIVE

- 1.A For the purpose of the quadrennial Divisional elections to be held in 2013 and thereafter, the Divisional Executive shall be composed of one (1) Divisional President, one (1) Divisional Senior Vice President, one (1) Divisional Vice President, one (1) Divisional Secretary, two (2) Divisional Assistant Secretaries and such Divisional Branch Secretaries who are not elected to any of the aforementioned positions on the Divisional Executive.

Further, provided that in addition to the Divisional Executive members referred to in the immediately preceding paragraph, there shall be an additional Divisional Executive member for any Divisional Branch with a financial membership exceeding 10,000 members, for each succeeding 10,000 financial members or part thereof within that Divisional Branch. For the purpose of this sub-rule the number of financial members shall be the number of such members as at 31 March in the year of the election. Such additional Divisional Executive members shall, notwithstanding sub-rule 2 herein, be nominated and elected by and from the Divisional Conference delegates from the relevant Divisional Branches to which those offices relate, such election to be conducted at the same time as the election of the Divisional Executive members referred to in the preceding paragraph.

Further provided that immediately following the declaration of the result of the election/ballot in accordance with sub-rules 7 or 11 herein, as the case may be, the Divisional Returning Officer shall call for nominations from the newly elected Divisional Executive members, other than the Divisional President, Divisional Senior Vice President, Divisional Secretary and Divisional Assistant Secretaries, for the office of Divisional Vice-President, and if necessary, conduct a ballot to determine that position.

2. Except for the filling of extraordinary vacancies and the office of Divisional Vice-President, the Divisional Executive members and Divisional Officers shall be elected by and from the Divisional Conference held in 1993 and every subsequent four (4) years thereafter and shall hold office until the date referred to in sub-rule 9.13(a) hereof.
3. deleted.
4. Preceding such conferences the Divisional Executive shall appoint a person as Divisional Returning Officer, who shall not be the holder of any office in, and shall not be an employee of, the union or of any Branch, sub-Branch or section of the union. Such Divisional Returning Officer shall have the conduct of the election of the Divisional Executive members and Divisional Officers and three Divisional Trustees in accordance with these rules.
- 4A. In addition, the Divisional Returning Officer shall have the conduct of the election of two (2) members of the National Women's Committee in accordance with rule 13B of the National Rules of the Union and according to the process set out in sub-rules (5)-(12) below.

The two (2) National Women's Committee member positions must be held by women and shall be elected by and from the Divisional Conference held in 1993 and every subsequent four (4) years thereafter, and shall hold office until the date referred to in sub-rule 9.13(a) hereof. To be clear, the two (2) National Women's Committee members are not members of the Divisional Executive.

5. Nominations shall be called for by the Returning Officer on a date fixed by the Returning Officer following the fixing by Divisional Executive pursuant to Divisional Rule 8 (xi) of a date and place for the holding of elections required under this rule and shall close fourteen days after nominations are called. Nominations shall be called by posting to each member of the Divisional Conference a notice of the opening of nominations. The Divisional Returning Officer shall call for nominations for all positions at the one time.

Nominations shall be made in writing by any member to Divisional Conference and submitted in accordance with these rules, by any delegate to Divisional Conference and such nominations must be agreed to by the candidate in writing.

The Divisional Returning Officer shall have the power in accordance with these rules to accept or reject such nominations, provided that if the Divisional Returning Officer rejects any nominations the following provisions shall have effect -

- (a) The Divisional Returning Officer shall notify the person concerned of the defect in the nomination; and
- (b) The Divisional Returning Officer shall, where it is practicable to do so, give the person concerned the opportunity if possible, of remedying the defect.

In any year in which an election under this rule is due the Divisional Executive, pursuant to its power under sub-rule 8 (xi) to fix the time and place for the holding of a Divisional Conference, shall fix the time and place for the Biennial Divisional Conference on any date in that year, provided that:

- (i) any elections required in that year may be conducted at the Biennial Divisional Conference with the persons elected taking office on the date referred to in sub-rule 9.13(a) of these rules;
- (ii) Divisional Executive may determine that the elections will be conducted at a Special Divisional Conference and may fix a time and place for the holding of a Special Divisional Conference for the purpose of conducting those elections with the persons elected taking office on the date referred to in sub-rule 9.13(a) of these rules; and

- (iii) in the event that Divisional Executive determines to hold a Special Divisional Conference for the purpose of conducting elections under paragraph (ii) above, Divisional Executive shall also determine a date and place for the holding of Biennial Divisional Conference in that year.
- (iv) Where the Biennial Divisional Conference or any Special Divisional Conference is to be held and/or fixed pursuant to this rule and the said Conference is to be conducted over more than one day, the Divisional Executive may fix the day of the Divisional Conference on which the election shall be held.

6. The ballot for Divisional Secretary shall be dealt with and completed. The ballot for the Divisional Assistant Secretaries shall be dealt with and completed. The ballot for the Divisional President shall be dealt with and completed. The ballot for the Divisional Senior Vice President shall be dealt with and completed. -The confirmation of election of such Divisional Branch Secretaries and Plasterers representatives who are not elected to any of the aforementioned positions on the Divisional Executive shall be dealt with and completed.

The ballot for the Additional Divisional Executive members as defined in sub-rule 1A hereof shall be dealt with and completed.

The ballot for the three (3) Divisional Trustees shall be dealt with and completed. Where a particular ballot is delayed subject to the operation of sub-clause (10) other ballots shall be proceeded with at Divisional Conference.

Following the election of three (3) trustees the Returning Officer shall call nominations to determine which of the two (2) Divisional Assistant Secretaries will be the designated Divisional Assistant Secretary and if necessary conduct a ballot to determine the election.

The ballot for the two (2) members of the National Women's Committee shall be dealt with and completed.

7. If the nominations are equal to the number of positions to be filled the Divisional Returning Officer shall forthwith declare to the Divisional Conference that such candidates are elected. An officer shall not hold more than one position on the Divisional Executive except the position of Trustee may be held by a member of the Divisional Executive other than a full-time Divisional Officer.
8. If there are more candidates than the number required for filling the office/s the Divisional Returning Officer shall prepare voting papers and conduct the ballot.
9. The election shall be by secret ballot and any candidate may appoint a Scrutineer by notification in writing to the Divisional Returning Officer prior to the commencement of the ballot whose duty it shall be to watch the interest of the candidate at all stages of the ballot. Such a scrutineer shall represent and may be present at any stage of the counting of the ballot provided that the Divisional Returning Officer is also present and shall do all things necessary to preserve the secrecy of the ballot and conduct themselves in a sober, proper and impartial manner and obey any directions given to them by the Divisional Returning Officer. If any scrutineer or scrutineers are not present at any stage or stages of the ballot the Divisional Branch Returning Officer may proceed nonetheless.
10. Any delegate to Divisional Conference who will not be present, either personally or by proxy, at the meeting at which an election is to be held, may lodge with the Divisional Returning Officer a request for an absentee vote together with an address where he can receive communications and, if any delegate has done so, the Divisional Returning Officer shall not declare the result of the ballot until he has given such delegates a reasonable opportunity to vote.
11. The Divisional Returning Officer shall declare to Divisional Conference the result of the ballot as soon as the count is completed. In the event of a tie, the Divisional Returning Officer shall determine the result by casting lots.

12. Except insofar as any Act from time to time provides otherwise, whenever any member has been declared elected to any office the member declared to be elected to such office, notwithstanding any defect or irregularity which may have occurred in or in connection with the calling for and dealing with nominations or the conduct of the ballot shall be recognised as validly entitled to hold such office on and from the date referred to in 13(a) of this rule.
13. (a) A Divisional Executive member shall hold office until 15 October in a year in which an election is required in accordance with these rules or until the Sunday immediately following the declaration of their successor's election at Divisional Conference (whichever is later).
14. (a) Where a casual vacancy occurs in any office under these rules as a result of death, resignation, retirement, dismissal or for any other reason, such vacancy may be filled by appointment by the Divisional Executive provided that the person so appointed shall hold office for as much of the unexpired part of the term of the office as does not exceed -
- (1) 12 months or
  - (2) three quarters of the term of the office whichever is the greater.
- (b) Where the unexpired part of the term of office exceeds that specified in 14 (a) of this rule, the Divisional Returning Officer shall conduct an election of Divisional Conference delegates to fill the vacant position, the person elected shall hold office for the remaining term of office.
- The Divisional Executive may decide that where sub-rule (b) applies such an election be conducted at a Special Divisional Conference or by a secret postal ballot of delegates at Divisional Conference in terms of Rule 17 of the National Rules of the Union as modified to suit the requirements of the election.
- (c) For the avoidance of doubt, on and from the date of certification of this sub-rule 14(c), the provisions of this sub-rule 14 shall apply to the filling of any casual vacancy occurring in the office of Senior Vice-President as a result of death, resignation, retirement, dismissal or for any other reason.
- (d) For the avoidance of doubt, on and from the date of certification of this sub-rule 14(d), the provisions of this sub-rule 14 shall apply to the filling of any casual vacancy occurring in the National Women's Committee positions as a result of death, resignation, retirement, dismissal or for any other reason.
15. The Divisional Executive shall, have and may exercise, subject to the review of its actions by Divisional Conference, the care, control, superintendence, management and administration in all respects of the affairs, business, Divisional funds and property of the Division and have and exercise all of the powers of the Divisional Conference, and, without limiting the generality of the foregoing it may -
- (a) Interpret and enforce the general policy of the Division.
  - (b) Control and conduct the business and affairs of the Division.
  - (c) Appoint the editor of any Divisional journal and manage and control the policy of the journal.
  - (d) Hear and decide any appeal from any Divisional Branch. Reasonable notice of the time and place of the hearing shall be given to all parties involved, who shall be given an opportunity of being heard.

- (e) Settle disputes between Divisional Branches. Any Divisional Branch concerned shall be given reasonable notice of the meeting and an opportunity of being heard before any settlement is effected.
- (f) Expend such moneys by way of ordinary expenditure of the Division as may be necessary.
- (g) Submit any matter to the members for decision by ballot.
- (h) Ensure that officers, committee members, delegates or members of the Division and Divisional Branches carry out the rules and decisions of the union and subject to Rule 11 impose penalties (i.e., fines not exceeding the sum of twenty dollars, suspension, expulsion or dismissal from office,) on officers, members, representatives, committee members or delegates of or to the Division for knowingly refusing to comply with the rules or the decisions of the Divisional Executive. Provided that the rules or the decisions of the Divisional Executive are available to members in the minutes of the Divisional Executive and the registered rules of the union and the Division are available at each Branch office. No penalty shall be imposed unless –
  - (i) The officer, member, representative, committee member or delegate concerned has been summoned to attend the meeting seven (7) days prior to the meeting;
  - (ii) Notice of the charge or allegation is given sufficient to enable a reply.
  - (iii) He/she is afforded an opportunity of being present at the hearing and of being heard in their own defence, including an opportunity to cross-examine and to give and call evidence.

Period of suspension imposed under these rules shall not exceed six months.

- (j) Take such action as may be necessary to secure the satisfactory working of any Divisional Branch of this Division and, subject to Rule 11, suspend or dismiss all or any members holding positions in, or for, a Divisional Branch and the appointment of a member of the Divisional Executive or any other member or members of the Union to conduct the affairs of such Divisional Branch. Provided that an election or appointment shall be held within three (3) months therefrom.

Reasonable notice of the time and place of the meeting shall be given to the Divisional Branch and to all parties involved, who shall be given an opportunity of being heard before any action is taken.

- (k) Control and supervise the work of the Divisional Officers.
- (l)
  - (i) All decisions of the Divisional Executive shall be made by a majority of the members present at the meeting unless otherwise provided by these rules.
  - (ii) Where two (2) members of the Divisional Executive request, prior to a matter being put to a vote, that a card vote be conducted with respect to any matter, such a card vote shall be conducted in accordance with this rule. In the absence of such a request, the provisions of (i) above shall apply.
  - (iii) Where a card vote is requested in accordance with (ii) above, each member of the Divisional Executive shall be entitled to exercise one vote provided however that any Divisional Branch Secretary shall be entitled to exercise additional ordinary votes based on the principle of one additional ordinary vote for each 2000 members or part thereof over and above the first 2000 members of the Divisional Branch from which the Divisional Branch Secretary derives.

- (iv) The manner of determining the number of members of any Divisional Branch for the purposes of (iii) above, shall be the same as the formula which applies in respect of membership numbers for the purposes of determining Divisional Branch representation to Divisional Conference as set out in rule 8(iv) of these Divisional rules.
- (v) Where a card vote is conducted, the matter shall be determined by a majority of votes cast including additional votes as provided for in (ii) to (iv) herein.
- (m) A loan, grant or donation of an amount exceeding \$1,000 shall not be made by this Division unless the Divisional Executive -
  - (i) has satisfied itself -
    - (a) that the making of the loan, grant or donation would be in accordance with the other rules of the Union; and
    - (b) in relation to a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
  - (ii) has approved the making of the loan, grant or donation.
- (n) To make, alter and rescind rules.
- (o) Notwithstanding that a Divisional Executive member may occupy more than one office each of which would entitle them to be a member of the Divisional Executive, a member of the Divisional Executive shall be entitled to exercise one vote only (except where additional ordinary votes are cast in accordance with sub-rule (1) above).

Further provided that where a Divisional Assistant Secretary is also a member of the Divisional Executive by virtue of holding office as Divisional Branch Secretary, such Divisional Assistant Secretary shall exercise their vote on the Divisional Executive in their capacity as a Divisional Officer only and any vote of such person as Divisional Branch Secretary [and, where applicable, any additional ordinary votes of the Divisional Branch], shall be exercised by the Divisional Branch Assistant Secretary from that Divisional Branch provided that person is otherwise a member of the Divisional Executive.

- 16. Any member of the Divisional Executive (other than the Divisional Secretary, Divisional President, Divisional Assistant Secretaries, Divisional Senior Vice-President and Divisional Vice-President) from a Divisional Branch that has more than two of the monthly capitation payments or part thereof and/or interest thereon for which the Divisional Branch is liable under sub-rule 14(i) outstanding to the Divisional Office as at the date of any meeting of the Divisional Executive shall not be entitled to attend any Divisional Executive (unless at the express invitation of one of the Divisional Officers) and in any event, shall not be entitled to move, amend or vote at any such meeting.
- 17. Meetings of the Divisional Executive shall take place at least twice per year provided however that a meeting of the Divisional Conference shall be counted as a meeting of Divisional Executive for the purpose of this rule. Further, the members of the Divisional Executive may be summoned by the Divisional Secretary to a meeting to be held at such time and place as shall be decided by the Divisional Secretary, provided that a majority of the members of the Divisional Executive may demand a meeting of such Divisional Executive which shall be held at such time and place as stipulated by such members of the Divisional Executive. The quorum for any meeting shall be six. Notice of meetings may be given by letter, facsimile, email or other electronic means or otherwise in writing or by telephone or verbally, provided that in the latter two instances such is confirmed by letter or telegram or telex or facsimile or other writing.

## 10 – REFERENDA

- (i) On a decision of a majority of Divisional Branches that are not Unfinancial Divisional Branches as at the date of the decision, or Divisional Branches that are not Unfinancial Divisional Branches and whose membership constitutes a majority of the members of the Division or on receipt of a petition signed by not less than 10 per cent of the financial members of the Division, Divisional Executive shall take a referendum of the whole of the members of the Division upon the matter or matters submitted by the Divisional Branches or members. A decision reached by a majority of the actual votes recorded shall be binding on the Divisional Conference Divisional Executive and the members of the Division.

Divisional Executive may at any time by its own motion take a referendum of the whole of the members of the Division upon any matter it thinks fit.

- (ii) The referendum referred to in this rule shall be conducted as follows:

Divisional Executive shall:

- (a) Determine the question to be submitted to the members and the form of the ballot paper.
- (b) Fix the times for the despatch and return of ballot papers and give the necessary instructions for printing of same.
- (c) Appoint a Divisional Returning Officer and Divisional Scrutineer in conjunction with Divisional Branch Returning Officers to conduct the ballot.
- (d) No material other than that authorised by the Divisional Executive shall be enclosed in the envelope in which the ballot paper is posted to the member.
- (e) In all other respects the referendum shall be held as nearly as practicable in the manner provided for the holding of elections of Divisional Branch Officers.

## 11 – REMOVAL OF OFFICERS

- (a) (i) Any Divisional or Divisional Branch Officer may be removed from office by majority decision of the Divisional Executive of the Division in which the Officer holds office, provided that such officer shall not be dismissed from office unless the officer has been found guilty, in accordance with the Rules of the Union, of misappropriation of funds of the Union or 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 Union to be eligible to hold office.
- (ii) An officer may be charged by any member of the Division with the offences referred to 11(a)(i) above, whether the offence occurred before or after this sub-rule came into effect, and where the Divisional Executive is to consider whether or not any Divisional or Divisional Branch Officer is to be removed from office under sub-paragraph i) herein, the procedure to be adopted shall be as follows:
- a) The officer is to be summoned to attend the meeting at least 7 days prior to the meeting,
- b) Notice of the charge or allegation is to be given sufficient to enable a reply,
- c) The officer is to be afforded an opportunity of being present at the hearing and of being heard in his/her own defence, including an opportunity to cross-examine and to give and call evidence.



## 13 – DUTIES OF OFFICERS

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- (b) Should any officer be removed from office the Divisional Executive may appoint a member to fill the vacancy until the next elections are held and a successor takes office in accordance with the rules, but no person shall be appointed to an office, otherwise than temporarily, where the remainder of the term of office is twelve (12) months or three quarters of the term whichever is the greater.
- (c) Any officer so removed from office shall have the right of appeal to the Divisional Conference and therefrom to the National Executive or National Conference.

In the event of the appeal being upheld the Divisional Conference, National Executive or National Conference may order reinstatement to apply on such conditions as it considers the circumstances warrant.

- (d) In the event of the re-election of an Officer removed from office under this rule, such officer shall be reimbursed by a payment of monies that represent the difference between such salary that would have received had the officer not been removed from office and the amount of salary the officer received during the period that the officer was removed from office.

## 12 – VACANCIES IN OFFICE

Subject to the Act and other rules dealing with this subject, if any vacancy shall occur by death, resignation or otherwise in any Divisional or Divisional Branch office such office may be filled by the Divisional Executive until a ballot can be held to fill the vacancy.

## 13 – DUTIES OF OFFICERS

- (i) Divisional President:

The Divisional President shall preside at meetings of Divisional Executive and meetings convened by Divisional Executive.

The Divisional President shall have a deliberative vote only.

The Divisional President shall carry out such other functions as shall be determined from time to time by the Divisional Executive. In cases where he is a full time officer he shall be under the control of the Divisional Secretary.

- (ii) Divisional Secretary:

The Divisional Secretary shall be responsible for the general correspondence of the Division, Divisional finance, filing of documents for the Division, industrial returns that are required to be made by the Division and the carrying out of decisions made by the Divisional Conference or Divisional Executive or by the National Conference or National Executive.

The Divisional Secretary shall have the power, subject to decisions of the Divisional Executive, Divisional Conference, National Executive and/or National Conference, to appoint, control and dismiss the staff of the Divisional Office.

The Divisional Secretary shall have prepared a properly audited financial statement of receipts and payments and all the funds and effects of the Divisional Office, together with a statement of the assets and liabilities of the Divisional Office for the year ending 31st December in each financial year. Such financial statement to be made available to Divisional Conference, Executive, National Conference, National Executive, National Secretary and Divisional Branches of this Division. Provided however that the financial year for the Division shall, on and from 1 April 2017, and for each year thereafter, commence on and from 1 April each year and end on 31 March of each following year.

The Divisional Secretary shall carry out such other functions as shall be determined from time to time by the Divisional Executive, National Conference or National Executive and allocate the duties of Divisional Officers.

(iii) Divisional Assistant Secretaries:

Divisional Assistant Secretaries and any other full-time Divisional Officer at the Divisional level shall perform all duties assigned to them by the Divisional Executive, National Conference or the National Executive.

They shall be under the control of the Divisional Secretary. They shall attend all meetings of Divisional Executive, National Conference and National Executive.

The Divisional Assistant Secretary who has been designated as the Divisional Senior Assistant Secretary in terms of Rule 9 sub-rule 6 shall fulfil all duties and responsibilities of the Divisional Secretary while on approved leave of absence except in respect of those duties decided otherwise by the Divisional Executive.

The office of Divisional Assistant Secretary may be resolved to be either a full-time or honorary office, by decision of the Divisional Executive made not less than 70 days prior to the calling of nominations for that office. Where a casual vacancy arises in that office, Divisional Executive may, prior to filling the vacancy under rule 12, resolve whether the office is to be filled on an honorary or full-time basis.

(iv) Divisional Senior Vice-President:

The Divisional Senior Vice-President shall assist the Divisional President in the conduct of meetings and shall preside in the absence of the Divisional President, and shall carry out such other duties as shall be determined from time to time by the Divisional Executive.

One of the Divisional Senior Vice-Presidents shall until the election of Divisional Officers after 2 January 1997 be a representative of Painters and that Divisional Senior Vice-President shall be a full-time officer of the Division.

(v) Divisional Vice-President:

The Divisional Vice-President shall assist the Divisional President or Senior Vice-President in the conduct of meetings and, in the absence of both the abovementioned officers, shall act as President.

The Divisional Vice-President shall carry out such other duties as shall be determined from time to time by the Divisional Executive.

(vi) Divisional Trustees:

The Divisional Trustees shall, subject to control by the Divisional Executive, be responsible, together with the Divisional Secretary, for the finance, property and investments of the Division.

(vii) Members of Divisional Executive:

Other members of Divisional Executive shall attend meetings of the Divisional Executive when summoned so to do and perform functions allocated by the Divisional Executive.

## 14 – FUNDS AND PROPERTY

- (i) Each Divisional Branch shall forward to the Divisional Office such percentage of the Divisional Branch income as may be apportioned from time to time by the Divisional Executive.

A Divisional Branch that does not remit to the Divisional Office the moneys or part thereof owed by it by the time after such moneys are due and payable so that it becomes an Unfinancial Divisional Branch within the meaning of rule 3, shall in addition to those moneys, also be liable to pay to the Divisional Office interest on the unpaid amount at the percentage rate for 90-day bank bills as at the date that Divisional Branch becomes an Unfinancial Divisional Branch, on and from the said date. Such a Branch will remain an Unfinancial Divisional Branch for all purposes under these Rules until the principal sum and interest thereon specified in this sub-rule are paid to the Divisional Office.

If the Divisional Executive is of a view that the reasons for the non-payment are genuine reasons of incapacity to pay, then such interest shall not be levied.

- (ii) Banking and Withdrawal: All moneys received by the Divisional Office shall be paid to the credit of the Division on current account with a bank or financial institution approved by the Divisional Executive. All funds drawn from the bank shall be authorised in writing by the Divisional Secretary, Assistant Secretaries or Divisional President and one Divisional Trustee.
- (iii) All expenditure for ordinary purposes, i.e., incurred in directly furthering the objects of the Union for members of this Division or in the expenses of management of this Division or in satisfying any debt to or of the National Office, may be disbursed by decision of the Divisional Secretary and one of the Assistant Divisional Secretaries.

Expenditure for other purposes authorised by the rules may be disbursed by a majority decision of the Divisional Executive, National Conference or National Executive.

- (iv) Investment of Funds: The funds of the Division shall be invested wherever possible in the name of the Union. Where this is not possible, investments shall be made in the name of the Divisional Trustees.

The funds of the Division may be invested in such securities as are permitted by the laws of any State of the Commonwealth for the investment of funds by trustees.

- (v) The property of the Division shall be under the control of the Divisional Executive and shall be in the name of the Union.

## 15 – AUDITOR

The Divisional Executive shall appoint an approved auditor who shall each financial year for the period ending 31 December audit the books and accounts of the Division and draw up a correct report on same. Provided however that the financial year for the Division shall, on and from 1 April 2017, and for each year thereafter, commence on and from 1 April each year and end on 31 March of each following year.

The auditor shall, in the report, draw attention of the Divisional Executive, National Conference and National Executive to any deficiencies or other matters which the auditor may think proper. The auditor shall have full and complete access to all the books and documents of the Division.

Upon receipt by the Divisional Secretary of a petition, signed by not less than 5% of the members of the Division, requesting that a general meeting of members of the Division be called for the purpose of considering the auditor's report, the general purpose financial report and the operating report of the Division, the Divisional Secretary shall convene such meeting as soon as is practicable.

## **16 – ALTERATION OF RULES**

These Divisional Rules and any Divisional Branch Rules of this Division may be altered or rescinded or new rules made by the Divisional Executive. Proposals for alterations of such rules may also be proposed by Divisional Branches and shall be forwarded with the notice calling the Divisional Executive.

Provided that Divisional Executive in session may alter such rules although previous notice has not been given.

Nothing in this rule affects the right of the Divisional Executive to vote on any matter, including rules, otherwise than at a meeting assembled.

## **17 – RULES BINDING ON MEMBERS AND DIVISIONAL BRANCHES**

These Divisional Rules, and all alterations, additions or rescissions thereof or thereto, shall apply to and be binding on all Divisional Branches of this Division and on all members who now, or who may hereafter, belong to the Division until they are made or become null and void according to law.

## **18 – DIVISIONAL BRANCHES**

- (a) There shall be Divisional Branches of the Division in each of the States and in the Australian Capital Territory, and in such other States or places as may be decided. The Divisional Executive may establish more than one Divisional Branch in any area and may do so on occupational or sub-industry bases, or may establish a single Divisional Branch for two or more States, Territories or places.

Such Divisional Branches shall be known as the Construction and General Division, New South Wales Divisional Branch, or as the case may be; or, with the approval of the National Executive or National Conference the Divisional Branch may be known by some other name.

- (b) (i) In Victoria and Tasmania, the Divisional Branch shall be known as the Construction and General Division, Victoria-Tasmania Divisional Branch. Further, in the State of Tasmania there shall be a sub-branch of the Victoria-Tasmania Divisional Branch which shall be known as the Construction and General Division, Victoria-Tasmania Divisional Branch, Tasmania Sub-Branch)

Provided however that the operation of the Victoria-Tasmania Divisional Branch shall be reviewed by the Divisional Executive with a view to re-establishing separate Divisional Branches in the States of Victoria and Tasmania where, in the opinion of the Divisional Executive, the establishment of such separate Divisional Branches is in the interests of the members in those states and the Division as a whole. Such a review shall be completed within three (3) years of the declaration of the ballot for the Divisional Branch elections in 2012.

- (ii) Notwithstanding any other rule to the contrary, the Divisional Branch President and the Divisional Branch Secretary of the former Tasmanian Divisional Branch shall upon the establishment of the Victoria-Tasmania Divisional Branch and until the declaration of the Divisional Branch elections in 2012, be and remain delegates to the Divisional Conference of the CFMEU, Construction and General Division.
- (c) In Western Australia, as a result of an agreement between the two Divisional Branch Secretaries prior to integration, the Divisional Branch Secretary of the integrated Divisional Branch shall be the principal officer and spokesperson for the Divisional Branch.

- (d) Victoria
- (i) The Victorian Divisional Branch shall have the control and management of all funds, assets and liabilities that had been controlled, held or managed by the Victorian FEDFA Divisional Branch and the Victorian Building Unions Divisional Branch immediately prior to the certification of this sub-rule.
  - (ii) The transfer of funds, assets and liabilities mentioned in the preceding sub-rule shall occur subject to any transfer of funds, assets and liabilities from the Victorian FEDFA Divisional Branch to the Mining and Energy Division in accordance with the rules of the CFMEU.
- (e) All Divisional Branches mentioned herein shall for all purposes be and remain an inseparable part of the Division by which they are established.

### **19 – DIVISIONAL BRANCH RULES**

- (i) Divisional Branches shall have rules set out herein. Divisional Branches may in accordance with the Divisional Branch rules hereto, make By Laws not inconsistent with these Rules or the National Rules and not inconsistent with the Laws of the Commonwealth. In the event of any such inconsistency the Divisional Branch By Law shall be void to the extent of such inconsistency.

Where any rule of a Divisional Branch allows for representation for different classifications of membership within the union such representation shall be reviewed by the Divisional Secretary no later than two months prior to the calling of nominations in that election so that representation of the classifications is based on the principle that the will of the majority shall not be thwarted and that there is appropriate representation of each such classification in the decision making bodies of the Divisional Branch concerned.

For the purpose of determining the two principles outlined in paragraph two herein, the aggregate membership over the 4 completed membership years immediately preceding the opening of nominations shall be averaged for the purpose of calculating the percentage of membership belonging to that classification. The proportion and representation decided upon in the manner outlined herein shall be reflected in the positions outlined in the rules for which nominations are called and shall remain the same (subject to any further decision of the Divisional Executive) for the period of office of the persons elected thereat.

Provided that where the classification has existed for less than four (4) years such lesser time shall be used for the purposes of the calculation.

- (ii) (a) Subject to sub-rule (c) hereof, unless expressly authorised by Divisional Conference or Divisional Executive, the powers and duties conferred by these Rules on Divisional Branch Council and Divisional Branch Executive Committees and the officers, organisers, full-time paid officials and employees thereof are exercisable only in respect of the members of those Divisional Branches and persons within the geographic area and occupational categories within the State or Territory for which the Divisional Branch is responsible.
- (b) Subject to sub-rule (c) hereof, unless expressly authorised by Divisional Conference or Divisional Executive, no officer, organiser, full-time paid official or employee of any Divisional Branch shall be authorised or permitted to perform any of the functions or duties conferred on such officers, organisers, full-time paid officials or employees by these rules, or to hold themselves out as an officer, organiser, full-time paid official or employee of the Union, other than within the geographic area and occupational categories within the State or Territory for which the Divisional Branch is responsible.

- (c) Nothing in sub-rules (a) and (b) hereof shall limit the rights of office holders to perform their duties as members of Divisional or National governing bodies in accordance with the rules, being those matters specified in rule 13 of these Rules and rule 22 of the National Rules of the Union. Further provided that sub-rule (b) hereof shall not apply where Divisional Branch officers, organisers, full-time paid officials or members carry out work in a Divisional Branch (other than a Divisional Branch in which such person is elected, appointed or engaged) pursuant to a resolution of the Divisional Branch Management Committee of the Divisional Branch in which such work is undertaken, and in accordance with the terms of that resolution.

## **20 – EXECUTION OF AGREEMENTS, ETC**

Industrial Agreements and other instruments that may be needed by or on behalf of the Division shall be made as follows:-

An Industrial Agreement and any instrument not required by law to be under seal may be executed by the Divisional President or one of the Vice-Presidents and the Divisional Secretary.

Any instrument required by law to be under seal may be executed under the common seal of the Union, in the presence of the National President or one of the Vice-Presidents and the National Secretary.

## **21 – SUBMISSION OF INDUSTRIAL DISPUTES**

An industrial dispute affecting the members of this Division may be submitted to conciliation or arbitration upon a resolution in favour of submitting such dispute carried by a majority of the members of the Divisional Executive or by the Divisional Secretary.

The Divisional Executive and the Divisional Secretary shall have full power to transact all business and do or authorise all acts and things in connection with such dispute and it or he may delegate it or his functions either generally or specifically.

## **22 – DIVISIONAL OFFICE**

The office of the Division shall be the office of the Divisional Secretary and shall be at 12/276 Pitt Street, Sydney, or such place as Divisional Executive shall decide.

There shall be an annexe at 500 Swanston Street, Melbourne in the State of Victoria.

## **23 – PRINCIPAL OFFICER**

- (i) The Divisional Secretary shall be the Principal Officer of the Division.
- (ii) In the case of a breach of legislation, Award or Agreement or other matter affecting a member of the Division, the Divisional Secretary or any Divisional Branch Secretary or other person or body authorised by Divisional Branch Rules to which the member belongs shall have the power to take such legal proceedings as are necessary to enforce the legislation, Award or Agreement, or to seek penalties against an employer for such breaches.

## **24 – RECOVERY OF DUES**

All claims for contributions, levies, fines, fees or liabilities of any kind due or payable to the Union by members of the Division may be sued for in the name of the Union by the Divisional Secretary or by the Divisional Branch Secretary of the Branch to which the member is attached or by any person or body authorised by these rules or the rules of the Divisional Branch.

## **25 – LEVIES**

- (i) Levies may be imposed for the purpose of carrying out any of the objects of the Union and for assisting the members of this or any other Union or body having objects similar in whole or in part to those of this Union.
- (ii) The amount of any levy may be decided by a majority of the Divisional Executive and when so decided shall be binding on all members or sections of members as the Divisional Executive may decide.
- (iii) A Divisional Branch may impose a levy on its members.
- (iv) A levy may be of one specific sum, payable at one specific time, or may be for a weekly, fortnightly or monthly period, payable for a certain specific period.

All levies shall be added to contributions and shall be a first charge against all payments made by members of the Divisional Branch.

## **26 – VOTING OTHER THAN AT MEETINGS**

- (a) If the Divisional Secretary shall consider it advisable to submit any matter, including the imposition of a levy or the alteration, rescission or making of rules to a vote of Divisional Executive members at any time he may submit a resolution dealing with such matter to the members by letter, facsimile, telephone, email, verbally and/or any other means of communication or any combination thereof.
- (b) A copy of such resolution shall be sent at the same time to each Divisional Branch Secretary.
- (c) The votes on such resolution shall be returnable to the Divisional Secretary at such time as the Divisional President and the Divisional Secretary shall fix. The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in meeting assembled.
- (d) No amendment shall be allowed on any such resolution, but if it is negatived any member may request the Divisional Secretary to submit in a like manner a further resolution bearing on the same matter. In the event of the Divisional Secretary being requested to submit more than one such resolution the order in which same shall be submitted shall be in his absolute discretion.
- (e) The Divisional Secretary shall keep a register of names and addresses of delegates to Divisional Conference.
- (f) Divisional Branch Secretaries shall within fourteen days of the election of delegates to Divisional Conference notify the Divisional Secretary of their names and addresses.

## 27 – STANDING ORDERS FOR MEETINGS

This Rule shall apply to all meetings in the Division, including Divisional Branch Management Committee meetings, but shall not apply to general Divisional Branch meetings and/or rank-and-file meetings to which Rule 64 shall apply.

This Rule operates as a guideline only and any meeting may expressly or impliedly determine a course and procedure not in accordance with these Standing Orders for Meetings. No departure from any or all parts of these Standing Orders, whether in form or substance, shall vitiate the calling of any meeting, or any resolution, discussion and decision made at any meeting or the continuation of any meeting.

(a) Motions - How Dealt With:

- (i) All motions shall be of an affirmative character and must be moved and seconded by delegates. Such motions become the property of the meeting and can only be withdrawn by leave thereof. The discussion on any motion shall not exceed 60 minutes unless a majority of delegates present agree to an extension of time.
- (ii) Unless a delegate rises to oppose a motion or propose an amendment thereto, the motion shall be immediately put to the meeting for decision.
- (iii) A motion may be superseded at any time by another motion "that it be discharged from the agenda paper" or "that the next business be proceeded with" being resolved in the affirmative.
- (iv) A motion may be amended at any time during the debate thereon always provided that the substance of the original motion be retained. If the amendment is carried it then takes the place of the motion.
- (v) Any number of amendments may be proposed and discussed with the motion. For the purpose of the debate the motion shall be the question before the chair. Amendments shall be put to the vote in the order in which they are received. If there is no further discussion, or if the motion "that the question be now put" is carried, the mover of the original motion may reply.
- (vi) All motions shall be put to the meeting by the chairperson in a clear manner by asking for the "ayes" to vote first and then the "noes". The chair's decision as to which has the majority will be final unless a show of hands is called for. The chairperson shall then count the votes for and against the question.

If the votes are equal the question is resolved in the negative.

- (vii) A mover of a motion to be allowed 15 minutes to introduce and five minutes to reply. Other speakers 10 minutes unless a majority of the delegates present agree to an extension of time.
- (viii) Right of Speaker: Any delegate desiring to speak shall rise and address the chairman. If two or more delegates rise at the same time the chairman shall call upon the one who, in his opinion, first rose.

Provided that no delegates can speak more than once upon any question (which shall include the original motion and all amendments thereto) before the meeting, except -

- (a) In reply as the mover of the original motion.
- (b) In explanation or correction of some matter during the debate.
- (c) Upon a point of order raised during the debate.



(d) Upon a resolution being carried "that he now be heard".

(ix) A delegate will not be held to have spoken who simply used the words "I second the motion" or "amendment", as the case may be; but for the purpose of debate shall be considered the second speaker in favour of the proposal seconded by him.

(x) No more than two delegates shall be allowed to speak for or against any question in succession. If at the conclusion of the second speaker's remarks no member rises to speak on the other side of the motion or amendment, it shall be put to the vote.

(xi) Any delegate speaking shall at once resume his seat

(a) If the chairman rises to speak; or

(b) If a point of order is raised.

and shall not resume his speech until the point of order is decided.

(xii) No delegate may speak to any question after it has been put by the chairman or during the taking of the vote.

(b) REPORTS

A report containing a recommendation may be discussed on a motion being moved for its adoption which, upon being carried, will signify the will of Conference thereon.

If the report contains any recommendation it shall be competent for a delegate to move a resolution arising out of and relative to the report to obtain the opinion of the meeting on the matter.

(c) ADJOURNMENT OF MEETING OR DEBATE

A motion for the adjournment of the meeting may be proposed at any time or for the adjournment of the debate, and shall be at once put to the meeting by the chairman unless time is mentioned. An amendment to alter the time can be proposed upon a motion for adjournment only if time is mentioned as part of such motion and can apply thereto.

(d) ADJOURNMENT OF STATED TIME

When a motion for the adjournment of a debate to any stated day or time has been carried, such motion shall not be abrogated unless with the consent of the meeting.

(e) CHAIR'S RULINGS

The chair's rulings on all points of order shall be final unless at the time a motion is carried that such ruling be disagreed with. When a motion to disagree with the ruling of the chairperson has been duly proposed and seconded, the chairperson shall leave the chair until the motion has been disposed of by the meeting. The mover only shall speak to the motion and the chairperson may explain the reasons for the ruling given. The motion shall then be put to the meeting by the Vice-Chairperson.

(f) SUSPENSION OF ORDER OF BUSINESS

It shall be competent by a majority vote of the members present for the meeting to suspend the order of business.

(g) SITTING AS A COMMITTEE

Divisional Executive may at any time, by a resolution agreed to by a majority of members present, resolve itself into a committee of the whole. The rules governing the business of Divisional Executive shall be observed when in Committee.

(h) DEFINITION:

In this rule "delegate" shall include any person attending a meeting.

## **DIVISIONAL BRANCH RULES**

### **28 – NAME**

The name of the Divisional Branches of this Division shall be as follows:-

- (a) In New South Wales, South Australia, Western Australia, and the Australian Capital Territory, "The Construction and General Division, X Divisional Branch" where X is the State or Territory concerned;
- (b) In Tasmania and Victoria "The Construction and General Division, Victoria-Tasmania Divisional Branch".
- (c) In Queensland in accordance with Rule 18 of these rules.

### **29 – ELIGIBILITY FOR MEMBERSHIP**

All persons who are members of or apply for membership in the Construction and General Division of the Union residing or employed in the State or Territory concerned shall be and remain members of the Divisional Branch or Divisional Branches within that State or Territory.

Provided that notwithstanding the provisions of any other rule, all persons who are members of or apply for membership of the Division, who are residing or employed in the Northern Territory shall, on and from 1 January 2012, be and remain members of the Queensland Northern Territory Divisional Branch.

Further provided that notwithstanding the provisions of any other rule, all persons who are members of or apply for membership of the Division, who are residing or employed in Victoria or Tasmania shall, on and from the date of certification of this rule, be and remain members of the Victoria-Tasmania Divisional Branch.

## **30 – MEMBERSHIP**

(i) General Section

- (a) Applications for membership of the Union and/or Divisional Branch shall be on a form published by the Divisional Branch and shall be signed by the applicant. Divisional Branches may publish applications for membership on the internet.

No omission, irregularity or want of form shall invalidate an application for membership provided that the person applying intended the document to be so treated and the union treated the document as an application form for membership.

- (b) A person applying for membership shall, on the membership application form, state which classification the applicant for membership considers to be his or her appropriate classification. All applications for membership shall be lodged with the Divisional Branch Secretary or such other person authorised by the Divisional Branch Council and such applications may be lodged via the internet or email. Applications for membership shall be dealt with by the Divisional Branch Management Committee or another committee authorised by Divisional Branch Council, who shall, if satisfied with the bona-fides and qualifications of the applicant, admit him or her to membership of the Divisional Branch and the Union.

The classification determined in accordance with this sub-rule:

- (i) shall be solely for the purpose of determining the eligibility of each member to nominate for election to any office within the Division or Divisional Branch where election to such office is dependent upon the members falling into one or other classification;
- (ii) shall be conclusive; and
- (iii) shall bind the Divisional Branch Returning Officer.
- (c) On being admitted to membership of the Divisional Branch a member shall, ipso facto, be and be deemed to be a member of the Construction and General Division, the Divisional Branch, and the Union.
- (d) A period of thirteen weeks, together with any period from the date of admission that the member has not been working at the trade, shall be allowed for the purpose of any member objecting to the continuance of membership of new members. Any objection to the continuance of membership of a new member shall be lodged in writing with the Divisional Branch Secretary or authorised person entitled to receive such application, such objection shall be lodged within the above-named period.
- (e) A new member shall during the currency of the probationary period be entitled to full membership privileges and responsibility in accordance with Rules.
- (f) A new member shall pay on application for membership all moneys required to be paid by a new member - Entrance Fee, one half year's contribution.
- (g) Applicants for membership shall be qualified workers of good character, and shall, when admitted to membership, enjoy all advantages of membership so long as they comply with the registered rules of the Union.

Half yearly terms shall be deemed to begin on the first day of April and October, respectively.

- (h) On being admitted to membership of the Divisional Branch a member shall, ipso facto, be taken to have authorised the union and its officers and employees to seek and obtain any information from any industry scheme of which that member is also a member or participant, for the purpose of ensuring that the member has received or is receiving all of the benefits to which that member is entitled under such industry schemes.

For the purpose of this sub-rule a reference to "industry scheme/s" shall be taken to include any or all of the following;

- (i) C+Bus or any state based equivalent superannuation scheme.
  - (ii) Australian Construction Industry Redundancy Trust or any State equivalent redundancy scheme, or predecessor scheme.
  - (iii) Any long service scheme established pursuant to legislation of any State or Territory for the benefit of persons in construction and related industries.
  - (iv) Any other scheme the benefits to which the member of the Divisional Branch is entitled pursuant to his/her contract of employment, or any legislation, or any award or certified agreement to which the union is a party.
- (ii) APPRENTICES, IMPROVERS, TRAINEES AND LABOUR MARKET PROGRAMME WORKERS
- (a) An apprentice (indentured or trainee), improver, trainee or other labour market programme worker may be admitted to this section. That person shall, on the completion of their apprenticeship or where they cease to be an improver, trainee or labour market programme worker, be transferred to the General Section and be subject to the provisions of the General Section membership.
  - (b) A person engaged in a pre-apprenticeship course at a technical college shall on application be admitted to the apprentices section without being required to pay any contributions (subject to payment of an enrolment fee to be determined by the Divisional Branch Management Committee from time to time).
  - (c) The same provisions relating to the admission of members to the General Section shall apply to applicants to the Apprentices, Improvers, Trainees and Labour Market Programme Workers section.
- (iii) Victoria-Tasmania Divisional Branch
- (a) The record of members of the Victoria-Tasmania Divisional Branch shall classify each member into one or other of the following classifications:-
    - (i) carpenter;
    - (ii) labourer;
    - (iii) stonemason;
    - (iv) tilelayer;
    - (v) painter;
    - (vi) signwriter;
    - (vii) bricklayer
    - (viii) solid plasterer
    - (ix) roof-tiler
    - (x) fibrous plasterer/fibrous plaster industry worker
    - (xi) crane operations
    - (xii) rigger/dogman
    - (xiii) plant and machine operations
    - (xiv) boiler attendant/engine driver
    - (xv) production worker (metal)
    - (xvi) concrete pump operations
    - (xvii) forklift/hoist operations
    - (xviii) driller
    - (xix) other

which shall be known as the member's designated classification.

- (b) A person applying for membership shall on the membership application form, state which one of the classifications set out in paragraph (a) the applicant for membership considers to be his or her appropriate classification.
- (c) In dealing with applications for membership the Victoria-Tasmania Divisional Branch Management Committee shall determine each new member's designated classification.
- (d) The Victoria-Tasmania Divisional Branch Management Committee may at any time change a member's designated classification provided that the Victoria-Tasmania Divisional Branch Management Committee shall not change a member's designated classification unless -
  - (i) the Victoria-Tasmania Divisional Branch Management Committee has received from the member a request in writing for a change to the member's designated classification setting out the reasons for the request; or
  - (ii) the member has been given a reasonable opportunity by the Victoria-Tasmania Divisional Branch Management Committee to state in writing the reasons why he or she should retain his or her designated classification or have a different designated classification.

As soon as practicable after the Victoria-Tasmania Divisional Branch Management Committee changes a member's designated classification in accordance with this paragraph the Victoria-Tasmania Divisional Branch Management Committee shall cause the member to be notified in writing and alter the record of members of the Victoria-Tasmania Divisional Branch accordingly.

- (e) The Victoria-Tasmania Divisional Branch Management Committee shall determine the designated classification of an applicant for membership in accordance with paragraph (d) or a change to an existing member's designated classification in accordance with paragraph (e) by reference to:-
  - (i) the trade or other qualifications held by the applicant for membership or existing member;
  - (ii) the award classification of the applicant for membership or existing member, or his or her last award classification; and
  - (iii) the work performed by the applicant for membership or existing member, or the last work performed by him or her.
- (f) Where the Victoria-Tasmania Divisional Branch Management Committee considers that it does not have sufficient information available to determine the designated classification of an applicant for membership or to change an existing member's designated classification it shall request that the member provide such further information as the Victoria-Tasmania Divisional Branch Management Committee considers appropriate.
- (g) The designated classification of each member determined in accordance with this sub-rule:
  - (i) shall be solely for the purpose of determining the eligibility of each member to nominate for election to any office within the Victoria-Tasmania Divisional Branch where election to such office is dependent upon the member falling into one or other of the classifications set out in paragraph (a) hereof;
  - (ii) shall be conclusive; and
  - (iii) shall bind the Divisional Branch Returning Officer.

- (h) For the purposes of determining length of membership of the Divisional Branch in rule 38(a) herein, previous financial membership of the VSBTU (PIWD) shall, where such member has obtained a clearance from the VSBTU in accordance with rule 9 of the National Rules of the CFMEU, count as financial membership of the Victorian Building Unions Divisional Branch.
- (iv) Queensland Northern Territory Divisional Branch (Northern Territory Members)
- The provisions of these rules relating to membership and applications for membership of the Queensland Northern Territory Divisional Branch shall apply with equal force and effect to persons residing and/or employed in the Northern Territory.
- (v) Victorian FEDFA Divisional Branch
- A period of prior membership of the former FEDFA Division Victorian Divisional Branch shall count as a period of membership of the Construction and General Division Victorian FEDFA Divisional Branch, for all purposes including the operation of divisional rule 38(a)(vii).

### 31 – ENTRANCE FEE

All applicants to the General Section shall pay an entrance fee that shall be any sum as the Divisional Branch Council or Divisional Branch Management Committee may decide.

All applicants to the Apprentice and Improvers' Section shall be admitted without the payment of an entrance fee.

The Divisional Branch Management Committee of each Divisional Branch shall determine such other circumstances, if any, in which an applicant shall be exempt from the requirement to pay an entrance fee.

### 32 – CONTRIBUTIONS

- (a) A statement setting out all contributions, levies and fines due shall be forwarded to every member half-yearly not later than March 1, and September 1, of each year.

Such notice shall be deemed to have been received by the member unless the member personally advises the Divisional Branch Secretary by registered letter on or before the 1st day of April or the 1st day of October, as the case may be, in the current year that the member has not received such statement.

In no case shall the failure of the member to receive a notice entitle the member to be considered financial other than provided for in this Rule.

- (b) Subject to the provisions of sub-clause (c) to (h) of this Rule, contributions shall be due and payable in advance as from the 1st day in April and the 1st day in October respectively in any year as follows:

GENERAL SECTION: Divisional Branch membership contributions shall be no less than 1% of the Building and Construction General On-Site Award 2010 (or any other award replacing that award) base rate for a carpenter multiplied by 26 unless decided otherwise by the Divisional Executive on application by the Divisional Branch concerned.

The Divisional Branch Management Committee shall calculate the amount of Union contributions based on the abovementioned formula.

The Divisional Branch contributions so fixed shall be applied from the following half year period commencing 1st October and 1st April respectively.

APPRENTICES, IMPROVERS, TRAINEES AND LABOUR MARKET PROGRAMME WORKERS: Divisional Branch contributions for apprentices shall be determined by the Divisional Branch Council concerned.

The apprentice shall be charged half yearly dues at the rate applying at the commencement of that financial half year, except in respect of the financial half year during which the apprentice becomes a tradesperson.

An improver, trainee or labour market programme worker shall be charged half yearly dues at a rate that is less than the general section and is determined from time to time by the Divisional Branch Management Committee.

#### Arrangements for Deduction Schemes

- (c) Subject to sub-rule (cA), notwithstanding anything elsewhere in the rules the union may make arrangements with

an employer (including any Government Department) or

any Bank, Building Society, Credit Union or other financial institution

for the regular deduction, on the authority of a member, of amounts whether by way of contributions (rounded up, if necessary, to a multiple of five cents), levies or any other monies which may be payable by a member to the union pursuant to the Rules, from

the wages or monies payable to the member or

from any account maintained by the member as the case may be,

and then so long as an authority by the member for the deduction of contributions and other financial dues which is acceptable to the Divisional Branch remains in force, the member shall be deemed financial, notwithstanding that the payments are not made in advance as required by this Rule provided that, the member was financial immediately prior to arranging such deduction.

Provided however that in the alternative, a member may authorise such additional deductions as will repay all outstanding contributions over time and also, from the point at which any outstanding contributions are met in full, ordinary regular deductions thereafter in which case such member shall be regarded as fully financial at the point at which all previously outstanding contributions are met and a current authority to deduct remains in force.

Further provided that in the case of new members such members may either pay all joining fees and membership contributions necessary to become a member and provide an authority to deduct such contributions from the commencement of the first dues period after the date of joining, in which case the member shall be deemed to be financial, or alternatively, authorise the regular deduction of all such fees and contributions as will result in a nil balance owing to the union at the end of such dues period in which case such member shall be entitled to all the benefits of membership other than the right to vote which right shall only be conferred after a continuous period of 26 weeks of contributions are paid under such authority.

(cA)

- (i) This rule applies to members attached to the QNTDB and the SA Divisional Branch and applies notwithstanding the provisions of sub-rule (c).

- (ii) Notwithstanding anything elsewhere in the rules, a member of the QNTDB or the SA Divisional Branch who:
  - (a) has paid the entrance fee;
  - (b) commenced on, and makes payment in accordance with, a Scheme, and
  - (c) either:
    - (A) has made payment of all Membership Contributions immediately prior to commencing on a Scheme; or
    - (B) has authorised the deduction of an amount that will result in the payment of all Membership Contributions within six (6) months of commencing on a Scheme or with such longer period as the Divisional Branch Secretary permits,

will be a financial member and will be entitled to all the benefits of membership including the right to vote.

- (iii) A member making payment of their Membership Contributions in accordance with:
  - (a) a payroll deduction scheme will be unfinancial if in arrears for a period of three (3) months after the last payment under the payroll deduction scheme was received; or
  - (b) a direct debit scheme will be unfinancial if in arrears of two (2) Periodic Payments.
- (iv) For the purposes of this rule:
  - (a) ‘Direct Debit Scheme’ means a scheme where a member provides written authority for contributions payable to the QNTDB or the SA Divisional Branch to be deducted, on such regular basis as the respective Divisional Branch Secretary agrees, from the member’s financial institution, similar debit account or credit card;
  - (b) ‘Membership Contribution’ means entrance fees, subscriptions and levies in accordance with these Divisional Rules;
  - (c) ‘Payroll Deduction Scheme’ means a scheme where a member provides written authority to their employer for contributions payable to the QNTDB or the SA Divisional Branch to be deducted, on such regular basis as the respective Divisional Branch Secretary agrees, from the member’s salary;
  - (d) ‘Periodic Payment’ means a payment required to be made by a member of the QNTDB or the SA Divisional Branch at the frequency authorised in their written authority; and
  - (e) ‘Scheme’ means a Payroll Deduction Scheme or a Direct Debit Scheme.

#### Levies

- (d) All levies required to be paid by members in accordance with these rules shall be paid in terms decided by Divisional Branch Council or the Divisional Branch Management Committee.

#### Fines

- (e) Any fines required to be paid by a member in accordance with these rules shall be paid in terms decided by Divisional Branch Council of the Divisional Branch Management Committee.



- (f) All moneys paid by a member shall be credited in the following order:
1. In payment of any levies due; and
  2. In payment of any fines due, and
  3. In payment of any contributions due

#### Unfinancial Member

- (g) Subject to Sub-rule (cA) and (i) herein, any member who has failed to pay all contributions, levies and fines imposed in accordance with the rules of the union shall be deemed to be unfinancial and shall not be eligible to receive any benefits, participate in any vote, nominate for official positions, propose or second any new applicant member for admission, or exercise any authority or any rights of membership as provided for in these rules.

From the date of payment of all such arrears or any cancellation, credit or waiver in accordance with these Rules, a member shall be deemed to be financial.

#### Credit to New Members

- (h) Applicants joining the Divisional Branch during the currency of any half year shall be credited in the next half year for such period as has elapsed before they joined. Such credit shall be calculated on a monthly basis.

#### Cancellation/Waiver of Contributions etc

- (i) Notwithstanding any other Rule to the contrary, a Divisional Branch Management Committee or such other official/s and/or employee/s within the Divisional Branch as the Divisional Branch Management Committee may authorise from time to time, may, in its discretion, cancel, waive, credit or otherwise diminish either in whole or in part, any contributions, fees, levies or other arrears, whether before or after the period to which the contribution, fee, levy or other arrear relates or before or after such contribution, fee, levy or other arrear falls due, or for or in relation to a period or amount arising before or after the certification of this sub-rule for such reason as the Divisional Branch Management Committee feels appropriate. Without limiting the generality of the foregoing, such grounds may include:
- (a) absence from Australia;
  - (b) inability to carry on a member's vocation or calling through illness or injury;
  - (c) unemployment
  - (d) any other hardship whatsoever;
  - (e) periods on workers' compensations or because of any injury which, in the view of the Divisional Branch Management Committee ought properly have been compensable;
  - (f) The maximisation of participation of members in Union affairs and the maximisation of financial union membership

Provided however that any decision to cancel, waive, credit or otherwise diminish the contributions, fees, levies or other arrears of any member by any officer/s and/or employee/s authorised by the Divisional Branch Management Committee to do so, shall be presented to the Divisional Branch Management Committee for final ratification at the next meeting of that body or as soon as practicable thereafter.

Further provided that the Divisional Branch Management Committee may, in its discretion, either before or after the said cancellation, waiver, credit or diminution require from any such member such documentation or other evidence which shows, to the satisfaction of the said Divisional Branch Management Committee, the basis of such cancellation, waiver, diminution or credit.

For the purposes of this Rule and any other Rule of the Union, any period covered by or any amount deducted from any amounts owing or diluted by any cancellation, waiver, credit or diminution shall count for all purposes as if it were a payment of the fees and, in the case of an amount rendering the member otherwise financial shall count, if the period so covered is the only period of unfinanciality, for all purposes as continuous financial membership unless the member is, otherwise than for the cancellation, waiver, credit or diminution, unfinancial.

Provided however persons seeking to rely on the preceding paragraph to establish financial membership for the purpose of eligibility to nominate for office under Rule 38(a) herein, shall only be permitted to do so where the amount waived or sought to be waived on each occasion does not exceed one six-monthly period of membership contributions.

Continuous membership for the purpose of this Rule and wherever encountered in these Rules means membership without any break in the continuity of membership from the last date of acceptance into the Division.

Provided that for the purposes of this Rule continuous membership shall be and include unbroken membership with any Division, Union, Branch or District which amalgamated with the Union or preceded the formation of this Division.

### **33 – COPY OF RULES**

All applicants shall be entitled to on admission receive free a copy of Rules of the Union applicable to such member upon request to the Divisional Branch Secretary.

### **34 – AGED, INFIRM, UNEMPLOYED OR UNFINANCIAL MEMBERS**

- (a) (i) A member with 10 years' continuous membership who is unable to follow their usual occupation, may on application to Divisional Branch Management Committee or other authorised Committee be granted retired membership at the discretion of the Divisional Branch Management Committee.

On payment of the amount of \$2.00 per year or such other higher amount as a Divisional Branch may determine, retired members shall be treated as fully financial and entitled to all the benefits of membership including the right to vote.

Persons who have previously been granted retired membership or honorary life membership shall, if they have paid an amount of \$2.00 per year or more since the granting of such membership, be and be treated as retired members in accordance with this sub-rule and fully financial in the union.

In the event that a retired member has paid more than the minimum amount the difference shall be credited to the members account.

- (ii) A member, with a total of 40 years' membership in their former Union and this Union, providing that such member joined this Union within three months of arrival in Australia or came on transfer from another Union may apply for life membership.

Such members shall be treated as fully financial and entitled to all the benefits of membership including the right to vote, without the requirement of paying any dues. Persons who have already applied for and been granted life membership shall be treated as coming within this sub-rule.

- (iii) In the case of the New South Wales Divisional Branch, Victoria-Tasmania Divisional Branch and the ACT Divisional Branch the forty (40) years mentioned in sub-rule (ii) shall be read as thirty (30) years.

### **35 – FUNDS OF THE DIVISIONAL BRANCH**

- (a) All moneys subscribed shall be held for the administration of the Divisional Branch in accordance with Rules and banked by its officers in such bank or banks as the Divisional Branch Council shall decide.
- (b) All expenditure from the funds shall be in accordance with the Rules of the Divisional Branch and no expenditure shall be permitted for any other purpose.
- (c) APPLICATION OF FUNDS - The funds of the Divisional Branch shall be used only for the carrying out of the objects of the Union and in necessary expenses of management.
- (d) INVESTMENT OF FUNDS - The surplus funds or other property of the Divisional Branch shall be invested from time to time in such manner as may be authorised by law and as may be determined by the Divisional Branch Council.
- (e) All expenditure for ordinary purposes, i.e., incurred in directly furthering the objects and for expenses of management, may be disbursed by direction of the Divisional Branch Management Committee and any other expenditure by direction of the Divisional Branch Council.
- (f) From the contributions of the members there may be established funds to be known as the Benefit Fund and Contingent Fund, which are to be used exclusively for the purpose set out in the rule covering these funds and not used for any other purpose.
- (g) The Divisional Branch Secretary may be authorised by the Divisional Branch Committee to incur any expenditure on behalf of the Branch Division provided that the Divisional Branch Management Committee may withdraw such authorisation at any time or for any period it sees fit. All expenditure incurred by this authorisation shall be placed before the Divisional Branch Management Committee for consideration and ratification.
- (h) BENEFIT FUND - The credit balance of a Fund shall be maintained at a level determined by the Divisional Branch Council and shall be reimbursed from the General Fund quarterly.
- (j) CONTINGENT FUND - The credit balance of a Fund shall be maintained at a level determined by the Divisional Branch Council and shall be reimbursed from the General Fund quarterly.
- (k) Notwithstanding sub-rules (e) and (g) hereof, in the NSW Divisional Branch all expenditure for ordinary purposes, i.e. incurred in directly furthering the objects of the union and for expenses of management of the Divisional Branch may be disbursed by decision of the Divisional Branch Secretary or the Divisional Branch President and such other official of the Divisional Branch as the Divisional Branch Management Committee may from time to time authorise. Provided however that all expenditure so incurred shall be placed before the Divisional Branch Management Committee for consideration and ratification, and further provided that the Divisional Branch Management Committee may withdraw such authorisation at any time or for any period it sees fit. Expenditure for other purposes authorised by the rules may be disbursed by decision of the Divisional Branch Management Committee.

### 36 – AUDIT OF ACCOUNTS

- (a) The accounts of the Divisional Branch shall be audited yearly by an approved auditor appointed by the Divisional Branch Council who shall produce and certify a financial statement and report setting out the financial position of the Divisional Branch every financial year to and including the last day of December of each financial year. Such auditor shall also produce and certify a yearly balance sheet. Provided however that the financial year for the Divisional Branches shall, on and from 1 April 2017, and for each year thereafter, commence on and from 1 April each year and end on 31 March of each following year.

The auditor shall have full and complete access to the books and documents of the Branch.

- (b) Copies of the financial statement and balance sheet shall be forwarded to all district secretaries for the information of and inspection by financial members.

Upon receipt by the Divisional Branch Secretary of a petition, signed by not less than 5% of the members of the Divisional Branch, requesting that a general meeting of members of the Divisional Branch be called for the purpose of considering the auditor's report, the general purpose financial report and the operating report of the Divisional Branch, the Divisional Branch Secretary shall convene such meeting as soon as is practicable.

### 37 – OFFICERS

- (i) In NSW the officers of the Divisional Branch shall consist of the Divisional Branch President, Divisional Branch Secretary, two Divisional Branch Assistant Secretaries, and Divisional Branch Management Committee members, together with such Organisers as may be deemed necessary and as the Divisional Branch Council or Divisional Branch Management Committee from time to time determine.
- (ii) Without affecting the term of office of persons holding office as Divisional Branch Officers in the QNTDB and the QBLDB immediately prior to the date of certification of this sub-rule, in the QNTDB the officers of the Divisional Branch shall, on and from 3 January 2014 and as a result of the merger of the QNTDB and the QBLDB, consist of the Divisional Branch President, two (2) Divisional Branch Senior Vice-Presidents (which positions shall be honorary), two (2) Divisional Branch Vice-Presidents (which positions shall be honorary), the Divisional Branch Secretary, the Divisional Branch Assistant Secretaries (the total number of which shall be determined in accordance with Rule 40 of these Divisional rules) which shall include a Divisional Branch Assistant Secretary (Plasterers) and may include a Divisional Branch Assistant Secretary (Painters), and two Divisional Branch Executive Members.
- (iii) In the Australian Capital Territory, the officers of the Divisional Branch shall consist of the Divisional Branch President (which position shall be honorary), two Divisional Branch Vice Presidents (which positions shall be honorary), the Divisional Branch Secretary/Treasurer, the Divisional Branch Assistant Secretary, Divisional Branch Organisers, Divisional Branch Delegates to Divisional Conference and members of the Divisional Branch Management Committee.
- (iv) Without affecting the term of office of persons holding office as Divisional Branch Officers immediately prior to the date of certification of this sub-rule, the officers of the Western Australia Divisional Branch shall, on and from 2 January, 2001, or the declaration of the election in 2000, whichever is the later, consist of the Divisional Branch President, the Divisional Branch Senior Vice President, the Divisional Branch Vice President, the Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, three (3) Divisional Branch Trustees, the Divisional Branch Treasurer and Divisional Branch Management Committee members, together with such number of Organisers as the Divisional Branch Management Committee from time to time determines.

Provided however that on and from the date of certification of this amendment there shall be only one (1) Divisional Branch Assistant Secretary in the Western Australian Divisional Branch.

- (v) (a) On and from the date of certification of this sub-rule and until 2 January 2013 or the declaration of the Divisional Branch elections in 2012, whichever is the later, the officers of the Victoria-Tasmania Divisional Branch shall be the Divisional Branch President, 4 Divisional Vice-Presidents (which positions shall be honorary), the Divisional Branch Secretary, a Divisional Branch Assistant Secretary, a Divisional Branch Senior Vice-President (FEDFA), a Divisional Branch Assistant Secretary (FEDFA), (both of which shall be paid, full-time positions), the members of the Divisional Branch Management Committee, the members of the Divisional Branch Sub-Branch Management Committee referred to in Rule 42B(i) herein, Divisional Branch Delegates to Divisional Conference, and such number of Organisers as may be decided by the Divisional Branch Management Committee.
- (b) On and from 2 January 2013 or the declaration of the election in 2012 whichever is the later, the officers of the Victoria-Tasmania Divisional Branch shall be the Divisional Branch President, a Divisional Branch Vice-President (which position shall be honorary), the Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, a Divisional Branch Senior Vice-President (FEDFA), (which shall be a paid, full-time position), the members of the Divisional Branch Management Committee, the members of the Divisional Branch Sub-Branch Management Committee referred to in Rule 42B(ii) herein, Divisional Branch Delegates to Divisional Conference, and such number of Organisers as may be decided by the Divisional Branch Management Committee.
- (vi) The officers of the South Australia Divisional Branch shall consist of the Divisional Branch President, (which position shall be honorary), the Divisional Branch Vice President, (which position shall be honorary), the Divisional Branch Secretary, two Divisional Branch Assistant Secretaries, the Divisional Branch Treasurer (which position shall be honorary), two (2) Divisional Branch Trustees, (which positions shall be honorary) and the members of the Divisional Branch Management Committee.

Provided however that on and from the date of certification of this amendment there shall be one only Divisional Branch Assistant Secretary in the South Australian Divisional Branch.

### 38 – DIVISIONAL BRANCH ELECTIONS

- (a) (i) Any member of the Divisional Branch who:
  - (A) is a financial member of the relevant Divisional Branch as provided for in Rule 6, at the time nominations are called,
  - (B) has had continuous membership of the Divisional Branch during the period immediately preceding the calling of nominations for the length of time specified in the scale in sub-rule (a)(vi) herein for the relevant offices and has not been unfinancial at any time during that period (irrespective of whether any outstanding contributions are subsequently repaid to render the member financial); and
  - (C) was,
    - (i) for not less than 9 months during the period of twelve months immediately preceding the calling of nominations employed as an employee in a trade or calling or branch thereof in or in connection with which the union is registered in the geographic area applicable to the relevant Divisional Branch, or engaged as an officer (as defined by Rule 37 herein) in the relevant Division or Divisional Branch (or in any state registered

counterpart organisation thereto) or as an employee thereof after having been elected or appointed thereto; or

- (ii) for not more than 3 months during the period of twelve months immediately preceding the calling of nominations, unemployed on account of illness, incapacity or inability to obtain employment

may nominate for such positions according to that scale.

- (iA) In relation to the South Australian Divisional Branch only, subrules (a)(i)(B) and (C) and the scale in sub-rule (a)(vi) will not apply to the filling of any casual vacancy that exists at the time of this rule change, or to any casual vacancy that may arise prior to nominations being called for the Divisional Branch election to be held in 2024.

For the avoidance of doubt, a casual vacancy occurs in any office under these rules as a result of death, resignation, retirement, dismissal or for any other reason, and will be filled in accordance with r38(cc).

Further, in relation to the South Australian Divisional Branch only, the offices which are identified in sub-rule (a)(vi) which require 3 years' continuous financial membership of the Branch will only require 1 year's continuous financial membership for the purposes of eligibility in the Divisional Branch election to be held in 2024 only.

Further, for the purposes of the Divisional Branch elections to be held in 2024 for the South Australian Divisional Branch only:

- (i) for the purposes of subrules (a)(i)(B) and (a)(vi), 1 years continuous financial membership may be of any Divisional Branch (including, but not limited to, the South Australian Divisional Branch) including continuous financial membership of more than one Divisional Branch; and
  - (ii) for the purposes of sub-rule (a)(i)(C)(i), a person will be eligible if they have been engaged as an officer (as defined in rule 37), or as an employee, of any Divisional Branch (or in any state registered counterpart organisation thereto) including, but not limited to, the South Australian Divisional Branch.
- (iB) In relation to the Victoria-Tasmania Divisional Branch only, the offices of Divisional Branch Senior Vice President and Divisional Branch Vice President which are identified in sub-rule (a)(vi) as requiring 3 years' continuous financial membership of the Branch will only require 2 years' continuous financial membership for the purposes of eligibility in the Divisional Branch election to be held in 2020 only.
  - (ii) Provided further that no member shall be entitled to nominate for more than one full-time office.
  - (iii) Where a member nominates for more than one full-time position the Returning Officer shall seek from the member an election as to which position the member wishes to contest.
  - (iv) Where no election is made by the member the Returning Officer shall treat as valid only the nomination for the more senior position.  
  
Seniority shall be determined in the following order:-  
Secretary, Assistant Secretary, President, Organiser.
  - (v) Except in the Divisional Branches in the Australian Capital Territory, Queensland, South Australia and Victoria, a member who nominates for Organiser shall not be entitled to nominate for Divisional Branch Council or Divisional Branch Management Committee.

- (vi) No member shall nominate for both Trade Management Committee member in accordance with Rule 42 - Divisional Branch Management Committee, and Trade or Zone Councillor in accordance with Rule 40 - Supreme Governing Body.

Where a member nominates for both, the Returning Officer shall seek from the member an election as to which position the member wishes to contest.

Where no election is made by the member the Returning Officer shall treat as valid only the nomination for the Divisional Branch Council, being the supreme governing body of the Divisional Branch.

The scale of continuous financial membership of the Branch necessary for members to be qualified to nominate for the following positions, is as follows:

Divisional Branch Secretary	)
Divisional Branch Secretary/Treasurer	)
Divisional Branch Assistant Secretary	)
Divisional Branch President	) 3 years'
Divisional Branch Senior Vice-President and Vice President	) continuous financial membership
Divisional Branch Delegate to Divisional Conference	)

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Divisional Branch Management Committee Member	) 1 year's
District Secretary/Organiser	) continuous financial membership
Organiser	)
Sub-Branch Secretary, President, Or Management Committee Member)	)
Divisional Branch Trustee (South Australia and Queensland Builders Labourers' Divisional Branches)	)

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Divisional Branch Councillor, representatives	) financial membership
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- (b) The term of office for the above positions shall be four years and such term shall commence from the 2 January, following the election. In the event that a delay in the conduct of an election means that the results for an office are not declared until after 2 January, the successful candidate(s) shall take up office on the Monday immediately following the declaration of their election. In circumstances where the results for an office are declared after 2 January, the term of the candidate will be reduced by the length of the delay to ensure that there is no disruption to the next scheduled Divisional Branch election under these rules.
- (b)(i) In the event that there is a delay of the kind described in rule 38(b), the incumbent will hold over office beyond 2 January and until their successor takes up office on the Monday immediately following the declaration of their election. Any action taken by the incumbent while holding over office shall not be invalidated merely because they have been held over in the position in accordance with these rules.
- (c) Nominations for the above positions shall be called by the Returning Officer by notification in the union journal and the Divisional and relevant Divisional Branch website. Where a Divisional Branch printed journal is not scheduled for publication within two weeks of the opening of nominations then the website notification shall suffice. Alternatively, notice may be given to members by publication in one daily newspaper circulating in the Divisional Branch area on or before the last day of August in the year of the election.

Provided that such notifications shall clearly indicate that the Divisional Executive members, the full-time Divisional Officers, the National Conference delegates and the National Officers are elected by and from Divisional Branch delegates to Divisional Conference and not otherwise.

- (d) Nominations must be lodged with the Returning Officer before the close of nominations at the address and by the methods specified on the notice of election. Nomination forms shall be signed by the candidate and by at least ten (in the case of those offices in (a)(vi) above for which 3 years continuous financial membership is required) and five (in all other cases) financial members of the Divisional Branch.
- (e) Nominations shall be closed at 4 pm on the second last Friday of September, 1996 and each four years thereafter following that date. Nominations must be received by the Returning Officer by that time on the date to be eligible.

A member having nominated for any office in accordance with this Rule may withdraw the nomination by notifying the Returning Officer in writing of an intention to do so at any time up to seven (7) days after the closing of nominations. The Returning Officer on receipt of a notification from a member wishing to withdraw a nomination shall immediately take the appropriate steps to withdraw the member's name from the ballot papers prior to their distribution.

- (f) Candidates may include with their nomination form, a statement not exceeding 200 words and in respect of Divisional Branch Councillor 50 words, containing only the candidate's personal history and only the candidate's policy statement.
- (g) The Returning Officer shall examine all nominations to ensure that they are in order and if any nominations are found to be defective, the Returning Officer, before rejecting the nominations, shall notify the person concerned of the defect and where practicable to do so give them the opportunity of remedying the defect within a period of not less than seven days after being so notified.
- (h) If at the closing date for nominations only sufficient nominations have been received by the Returning Officer to fill any vacancy or vacancies the Returning Officer shall thereupon declare person or persons so nominating elected and supply forthwith a report of the declaration of the ballot to the Divisional Branch Management Committee and candidates by submitting a Returning Officers' report to the Divisional Branch Secretary.
- (j) If all nominations are received and there are more nominations than there are vacancies the Returning Officer shall conduct a draw for positions on the ballot paper and shall notify candidates of the time and place of the draw in sufficient time for a candidate or his nominee to attend the draw; such attendance shall be at the candidate's own costs and expense.
- (k) The Returning Officer shall forthwith have printed ballot papers in sufficient quantities to enable him to supply a ballot paper for each member eligible to vote in the election and secure a certificate from the printer as to the number printed.
- (l) Such ballot papers shall have printed thereon only the title of the office to be filled, method of voting and the name of the candidates for such office and a space for the required vote to be registered, provided however that where more than one candidate is required to be elected the number to be elected shall, be printed on the ballot paper. The position of the names of each candidate on the ballot paper shall be in order of the draw of positions for that ballot.
- (m) Where a ballot is required, the Divisional Branch Secretary shall provide, within one day of the closing of nominations, a certified list of financial members entitled to vote to the Returning Officer.



- (n) The Returning Officer shall, on a date which will enable the ballot paper to be posted not later than fourteen clear days before the closing date of the ballot, send by registered post to each member eligible to vote in the election at their address appearing on the list of members eligible to vote supplied to the Returning Officer by the Divisional Branch Secretary the following documents/materials only: -
- (i) a ballot paper initialled by the Returning Officer in respect of each office to be filled at the election for which the member is eligible to vote.
  - (ii) a declaration envelope in such form as is prescribed by Regulation 5 of the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003.
  - (iii) a prepaid envelope in such form as is prescribed by Regulation 6 of the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003.
  - (iv) such printed instructions necessary for the completion of each of the ballot papers enclosed and any other instructions that the Returning Officer may consider necessary.
  - (v) the candidates statement provided for in accordance with sub-rule (f) of this rule.
  - (vi) provided that the Returning Officer shall post to each member eligible to vote by pre-paid post all ballot papers. The ballot papers shall be posted to ensure eligible members receive them not less than 14 days before the closing of the ballot.
- (o) All financial members as defined in this rule shall be entitled to vote for all positions. Provided that in respect of voting for councillors members shall only be entitled to vote to elect the Councillor or Councillors within their Trade District or if they are not a member of a trade district, for the councillors within the zone district that they are attached to.

The zone that a member is attached to for the purpose of this rule shall be the zone that the member resides in according to the Divisional Branch records which shall be based upon the last address supplied to the Divisional Branch by the member up to and including the last working day of September in the year of the election.

- (p) For the purpose of the election, the books of the Divisional Branches shall be deemed to have closed eight (8) days before the date on which nominations open (the electoral roll closure date). Only members who are shown in the records at the office of the Divisional Branch as having paid all contributions, levies and fines as at the electoral roll closure date shall be entitled to vote.
- (q) The opening date of the ballot shall be at the 12th day of November and the closing date shall be noon on the 26th day of November in each year in which the ballot is held. All ballot papers shall be returned to the Returning Officer, c/- the post office box named on the reply envelope. The post office box to which the ballot papers are returned shall be hired by the Returning Officer prior to the dispatch of the ballot papers or if a box has been previously used by the union, they shall cause the lock to be changed.
- (r) The Returning Officer shall collect the returned ballot papers and keep them securely under their custody until the commencement of the count.
- (s) The Returning Officer shall advise scrutineer/s of a secure space and location where the count shall occur. If the AEC is conducting the election, the counting of the ballot shall take place on AEC premises. If it is necessary to interrupt the count for any purpose the papers shall be sealed in the ballot box to which any seals may be fixed by a scrutineer.
- (t) Any candidate at their own expense, may appoint a financial member of the union to act as their scrutineer by notification in writing to the Returning Officer. Any scrutineers so appointed may be present at any stage of the counting of the ballot provided that the Returning Officer is also present.

- (u) (i) The Returning Officer shall proceed to count the ballot on the preferential system provided for in Rule 3, Definitions, and the candidate or candidates receiving the necessary votes shall be declared elected. The counting of the ballot shall be completed not later than the first day of December following the closing of the ballot.
- (ii) In any election for trade and/or zone councillors of the Divisional Branch Council the method of counting shall be that the candidate receiving the highest number of votes amongst candidates from the same trade in respect to trade councillors and amongst candidates who are from the relevant classifications relating to the respective representatives of each zone in respect to zone councillors, shall be declared elected.
- (iii) In any election for the Divisional Branch Council where there is no candidate to fill the trade position of Bridge & Wharf Carpenters or Tilelayers or Slater & Tilers, Plate, Sheet and Ornamental Glass Worker or Stonemason, Marble Mason, Terrazzo Workers or where there are insufficient candidates to fill all the positions in any zone, any such position shall be filled by an election held in accordance with the provision for casual vacancies contained in Rule 38 sub-rule (cc), of which election shall be held not earlier than 6 weeks and not later than 6 months following the declaration of the poll for the election of other Divisional Branch Councillors.
- (iv) In any election for the Divisional Branch Management Committee where there is no candidate or insufficient candidates to fill the positions, any such position shall be filled by an election held in accordance with provisions for casual vacancies contained in Rule 38 sub-rule (cc), of which elections shall be held not earlier than 6 weeks and not later than 6 months following the declaration of the poll for the election of other Divisional Branch Management Committee Members.
- (w) In the case of equality of votes for any 2 or more candidates the Returning Officer shall determine which of the candidates is elected by their casting vote by casting lots.
- (y) The Returning Officer shall declare the successful candidates elected and notify the Divisional Branch Management Committee of the result of the ballot and the Divisional Branch Management Committee shall issue instructions for the publication of same in their minutes.

The officer shall also notify each successful candidate by post.

The Returning Officer's report to the Divisional Executive shall contain all relevant information including the number of ballot papers printed, the number posted, the number returned, the number unused, the number of votes received by each candidate, the names of those nominated for each office and their proposers.

- (z) The successful candidates shall take up their respective duties not later than the 2nd day of January following the conclusion of the ballot, or otherwise in accordance with rule 38(b), and shall remain elected until their successors take up office.
- (aa) Any accidental or unavoidable omission or error in the carrying out or observance of this rule shall not invalidate an election if such omission or error appears not to have affected the result of an election.
- (bb) In any election the Returning Officer and any Scrutineer shall do all things necessary to preserve the secrecy of the ballot and shall conduct themselves in a sober, proper and impartial manner. Scrutineers shall, as far as practicable, be present at all stages of the ballot.

They shall obey any directions given to them by the Returning Officer. If any Scrutineers or Scrutineer are not present at any stage or stages of the ballot the Returning Officer may proceed nonetheless.

(cc) Where a casual vacancy occurs in any office under these rules as a result of death, resignation, retirement, dismissal or for any other reason, such vacancy may be filled by appointment by the Divisional Branch Management Committee provided that the person so appointed shall hold office for as much of the unexpired part of the term of the office as does not exceed -

- (1) 12 months or
- (2) three quarters of the term of the office, whichever is the greater.

Where the unexpired part of the term of office exceeds that specified in these rules, the Returning Officer shall conduct an election in accordance with the rules, with any necessary modifications to fill the vacant position, the person elected shall hold office for the remaining term of office.

(dd) In the Victoria-Tasmania Divisional Branch only, where a casual or extraordinary vacancy occurs in a Zone Delegate's position which has the effect of reducing the number of tradesperson or labourer delegates below the minimum number of tradesperson or labourer delegates for that zone, such vacancy shall be filled by a member with the same designated classification in accordance with sub-rule 30 (iii) as the Zone Delegate who previously held the position.

### **39 – PLACE OF MEETING OF THE DIVISIONAL BRANCH**

The place of meeting and office of the Divisional Branch shall be such place determined by the Divisional Branch Council.

### **40 – SUPREME GOVERNING BODY - DIVISIONAL BRANCH COUNCIL**

(1) Subject to these Rules, the highest governing body of each Divisional Branch, shall be the Divisional Branch Council convened by the Divisional Branch Management Committee no less frequently than every two years.

Provided however that in the Queensland Northern Territory Divisional Branch the Divisional Branch Council shall meet not less than three times per year.

- (2) (i) In New South Wales,
  - (a) The Divisional Branch Council shall, on and from 2 January, 2013, or the declaration of the election in 2012, whichever is the later, consist of the members of the Divisional Branch Management Committee together with zone councillors as provided by sub-rule (b) herein.
  - (b) The Divisional Branch Councillors in New South Wales shall include the following Zone Councillors:

Cumberland Zone:	22 councillors who reside in the County of Cumberland elected by all members of the Divisional Branch.
Northumberland Zone:	3 councillors who reside in the County of Northumberland elected by all members of the Divisional Branch.
Camden Zone:	3 councillors who reside in the County of Camden elected by all members of the Divisional Branch.
Country Zone:	3 councillors who reside in NSW, (other than in the Counties of Northumberland, Cumberland or Camden), elected by all members of the Divisional Branch

The ballot paper for the election of New South Wales Divisional Branch Zone Councillors shall specify the four zones referred to above and the number of candidates to be elected from each zone, and the name of each candidate shall be placed under the name of the zone in which each candidate is standing for election.

The counties referred to in this sub-rule are as defined in accordance with the NSW lands administrative divisions.

- (ii) (A) Without affecting the term of office of the Divisional Branch Council members of the QNTDB elected to office at the 2016 Divisional Branch elections, on and from the date of certification of this sub-rule, and thereafter, the Divisional Branch Council of the Queensland Northern Territory Divisional Branch shall consist of the following:

- (i) the Divisional Branch President;
- (ii) two (2) Divisional Branch Senior Vice-Presidents;
- (iii) two (2) Divisional Branch Vice-Presidents;
- (iv) the Divisional Branch Secretary;
- (v) the Divisional Branch Assistant Secretaries;
- (vi) two (2) Divisional Branch Executive Members;
- (vii) 12 members on the Divisional Branch Council who shall be elected by and from the three sub-groups as follows:

- (a) eight (8) Divisional Branch Council members who shall be elected by, and from, the members who reside in South East Queensland;

- (b) three (3) Divisional Branch Council Members who shall be elected by, and from, the members who reside in Regional Queensland, provided that at least 1 of these Divisional Branch Council members will be elected from the members who reside in North Queensland,

- (c) one (1) Divisional Branch Council Member who shall be elected by, and from, the members who reside in the Northern Territory, subject to the:

- 1. number of Divisional Branch Council member/s elected:

- a. under paragraph (vii)(a) being reduced by one (1) if the Divisional Branch President resides in South East Queensland;

- b. under paragraph (vii)(b) being reduced by one (1) if the Divisional Branch President resides in Regional Queensland;

- c. under paragraph (vii)(c) being reduced by one (1) if the Divisional Branch President resides in the Northern Territory;

- 2. number of Divisional Branch Council member/s elected:

- a. under paragraph (vii)(a) being reduced by one (1) or more if one (1) or more of the Divisional Branch Senior Vice Presidents resides in South East Queensland;

- b. under paragraph (vii)(b) being reduced by one (1) or more if one (1) or more of the Divisional Branch Senior Vice Presidents resides in Regional Queensland; and/or
    - c. under paragraph (vii)(c) being reduced by one (1) if a Divisional Branch Senior Vice President resides in the Northern Territory;
  - 3. number of Divisional Branch Council member/s elected:
    - a. under paragraph (vii)(a) being reduced by one (1) or more if one (1) or more of the Divisional Branch Executive Members resides in South East Queensland;
    - b. under paragraph (vii)(b) being reduced by one (1) or more if one (1) or more of the Divisional Branch Executive Members resides in Regional Queensland; and/or
    - c. under paragraph (vii)(c) being reduced by one (1) or more if a Divisional Branch Executive Member resides in the Northern Territory;
- (B) The Divisional Branch Secretary, the Divisional Branch Assistant Secretaries, the Divisional Branch President and the Divisional Branch Senior Vice-Presidents shall, subject to this sub-rule, be elected by and from Members of the QNTDB, who are eligible to nominate and vote in accordance with these Rules.
- (C) The Divisional Branch Council may, not less than three (3) months prior to the opening of nominations as prescribed in Rule 38 of these Rules, determine whether the office of Divisional Branch President is to be held on an honorary or full-time basis following the quadrennial election, provided that for the purposes of the quadrennial election to be held in 2020, the office of Divisional Branch President is to be honorary.
- (D) The Divisional Branch Senior Vice Presidents and the Divisional Branch Executive Members shall, subject to this sub-rule, be elected by and from members of the QNTDB, who are eligible to nominate and vote in accordance with these rules.
- (E) The Divisional Branch Assistant Secretary (Painters) (if any) shall, subject to a candidate for the office being entitled to nominate under these Divisional rules, be elected by, and from, the members of the QNTDB, who are eligible for membership under National Rule 2(A)(b) and entitled to vote.
- (F) The Divisional Branch Assistant Secretary (Plasterers) shall, subject to a candidate for the office being entitled to nominate under these Divisional rules, be elected by, and from, the members of the QNTDB, who are eligible for membership under National Rule 2(A)(a)(ii) and entitled to vote.
- (G) The Divisional Branch Assistant Secretaries (General) shall, subject to a candidate for the office being entitled to nominate under these Divisional rules, be elected by, and from, all members of the QNTDB, who are entitled to vote.

- (H) The Divisional Branch Council shall, not less than three (3) months prior to the opening of nominations as prescribed in Rule 38 of these Divisional Branch Rules, determine the number of Divisional Branch Assistant Secretaries to be elected.
- (I) The Divisional Branch Council shall, not less than three (3) months prior to the opening of nominations as prescribed in Rule 38 of these Rules, determine which (if any) of the Divisional Branch Assistant Secretaries are to be honorary.
- (J) The Divisional Branch Council will, at its first meeting held following a quadrennial election, elect from its members two (2) Divisional Branch Vice-Presidents and:
  - (i) the procedure to be followed shall be, the necessary changes being made, the procedure for the election of Divisional Executive in accordance with Construction and General Divisional Rule 9; and
  - (ii) Divisional Branch Vice-Presidents will not, apart from holding the office of Divisional Branch Council Member, hold any other office in the QNTDB.
- (K) Despite sub-rule (I):
  - (i) the Divisional Branch Council may determine that a full time office of Divisional Branch Assistant Secretary will, with the consent of the incumbent in that office, revert to an honorary office; and
  - (ii) where a casual vacancy arises in an office of Divisional Branch Assistant Secretary, the Divisional Branch Executive may, prior to filling the vacancy pursuant to these Rules, resolve whether the office will be abolished or whether it is to be filled on an honorary or full-time basis.
- (L) Despite sub-rule (C):
  - (i) the Divisional Branch Council may determine that a full time office of Divisional Branch President will, with the consent of the incumbent in that office, revert to an honorary office; and
  - (ii) where a casual vacancy arises in an office of Divisional Branch President, the Divisional Branch Executive may, prior to filling the vacancy pursuant to these Rules, resolve whether the office is to be filled on an honorary or full-time basis.
- (M) For the purposes of this rule:
  - (i) “North Queensland” means the Local Authority areas of:
    - (a) Shire of Carpentaria;
    - (b) Tablelands Region;
    - (c) City of Townsville;
    - (d) Shire of Hinchinbrook;
    - (e) Cassowary Coast Region;
    - (f) Shire of Yarrabah;
    - (g) Cairns Region;

- (h) Shire of Wujal Wujal;
  - (i) Shire of Hope Vale;
  - (j) Shire of Cook;
  - (k) Shire of Lockhart River;
  - (l) Shire of Kowanyama;
  - (m) Shire of Pompuraaw;
  - (n) Shire of Aurukun;
  - (o) Napranum Shire;
  - (p) Shire of Mapoon;
  - (q) Northern Peninsula Area Region;
  - (r) Palm Island Regional Council;
  - (s) Torres Strait & Torres Strait Regional Council;
  - (t) Shire of Mareeba; and
  - (u) Shire of Douglas.
- (ii) “Regional Queensland” means all of the local authorities of Queensland other than those that comprise South East Queensland.
- (iii) “South East Queensland” means the Local Authority areas of:
- (a) Brisbane;
  - (b) Gold Coast;
  - (c) Ipswich;
  - (d) Lockyer Valley;
  - (e) Logan;
  - (f) Moreton Bay;
  - (g) Noosa;
  - (h) Redland;
  - (i) Scenic Rim;
  - (j) Somerset; and
  - (k) Sunshine Coast.

- (iii) In the Australian Capital Territory the Divisional Branch Council shall consist of the 17 members of the Divisional Branch Management Committee and nine (9) councillors elected from the membership of the Branch. Of the 9 councillors elected from the membership, 5 shall be tradespersons and 4 shall be non-tradespersons (including 1 councillor who is eligible for membership of the Union pursuant to National Rule 2(E)).
- (iv) In Western Australia the Divisional Branch Council shall consist of the Divisional Branch Management Committee together with a further 20 delegates elected from the whole of Western Australia. In determining the composition of these delegates, regard shall be had to the principle of proportional representation.
- (v) (a) On and from 2 January, 2013 or the declaration of the election in 2012 whichever is the later, the members of the Divisional Branch Council of the Victoria-Tasmania Divisional Branch shall consist of the members of the Divisional Branch Management Committee, the members of the Divisional Branch Sub-Branch Management Committee referred to in Rule 42B(ii) herein and Zone Delegates elected in accordance with the following:

The Zone Delegates to Divisional Branch Council referred to in sub-rule (b) hereof shall be determined in accordance with the following formula:

<u>Size of Zone</u>	<u>Number of Delegates</u>
Up to 500 financial members	4 delegates
Each additional 1000 financial members	3 delegates

The number of financial members of a Zone for the purpose of determining the number of Zone Delegates to Divisional Branch Council in accordance with this paragraph shall be the number of financial members attached to the zone as at 5.00 p.m. on 30 July preceding the calling for nominations for elections of Zone Delegates to Divisional Branch Council.

Wherever any election of the Zone Delegates to Divisional Branch Council becomes necessary only the members belonging to that zone where an election is required to take place shall be eligible to nominate and to receive a ballot paper.

Subject to the proviso in the following paragraph, the Divisional Branch Council shall consist of Zone Councillors in accordance with the formula set out in this paragraph and, in the case of the Metropolitan Melbourne Zone, there shall be representation of carpenters, builders labourers, crane operations, rigger/dogman, plant and machine operators, boiler attendant/engine driver, production worker (metal), concrete pump operations, forklift operations, hoist operations, drilling/piling, painters/signwriters, bricklayers, roof-tilers, stone masons, wall and floor tilers, fibrous plasterer/fibrous plaster industry workers and solid plasterers in accordance with the proportions set out in Rule 42(a)(v) with respect to the Victoria-Tasmania Branch Management Committee, and for all other zones, representation shall be by and from all members of the respective zones.



(b) The zones shall be as follows:

<u>Zone</u>	<u>Member's Residential Postcode</u>
Metropolitan Melbourne	3000 - 3210 Inclusive 3335 - 3341 " 3425 - 3443 " 3750 - 3811 " 3910 - 3920 " 3926 - 3944 " 3972 - 3978 " 3980 - 3983 " 8002 - 8009 Inclusive
Geelong	3211 - 3289 Inclusive 3292 - 3316 " 3320 - 3334 "
Central Victoria	3290 - 3291 Inclusive 3317 - 3319 " 3342 - 3424 " 3444 - 3463 " 3464 - 3599 "
Northern Victoria	3338 3600 - 3749 Inclusive
LaTrobe	3812 - 3909 Inclusive 3921 - 3925 " 3945 - 3971 " 3979 3984 - 3999 Inclusive

(vi) In South Australia the Divisional Branch Council shall consist of the Divisional Branch Committee of Management together with an equal number of delegates elected from the whole of South Australia. In determining the composition of these delegates, regard shall be had to the principle of proportional representation.

Further provided that on and from the 1 April 2012 and as a consequence of the integration of the South Australian District Branch of the Mining and Energy Division, the following persons shall, until the expiration of the term of office of the office holders of the South Australian Divisional Branch as at the date of certification of this rule, be members of the South Australian Divisional Branch Council representing the interests of those members of the Divisional Branch who were formerly members of, or eligible to be members of the South Australian District Branch of the Mining and Energy Division - Robert Geyer, Brad Prince.

(3) Divisional Branch Council shall commence not later than the fourth Monday in September and continue on daily until the business before Divisional Branch Council is finished.

(4) Divisional Branch Council shall be the highest deliberative body of the Divisional Branch and shall have the power, subject to these Rules, to:

(a) Take such steps as it shall consider necessary to carry out all or any of the objects of the Union and to raise or spend such funds as are necessary to carry out the objects of the Branch and to raise or spend such funds as are necessary to carry out the objects.

- (b) Direct the policy of the Divisional Branch.
- (c) Divide the Divisional Branch into zones or districts in accordance with the Rule for the purpose of better organisation.
- (d) Subject to rule 16, amend or add to the Rules.
- (e) Hear and determine all appeals that are submitted in accordance with the Rules.
- (f) Fix salaries of all full-time Divisional Branch offices and allowances for delegates or persons appointed by the Divisional Branch to do any work on behalf of the Divisional Branch.
- (g) Returning Officer:
  - (i) At its first meeting after the election or appointment of the Divisional Branch Council shall appoint a Returning Officer and a Deputy Returning Officer, who shall act in the absence of the Returning Officer, for the conduct of any elections or appointments as may be necessary throughout the ensuing four year period provided that a duly appointed Returning Officer shall hold office until a successor thereto is duly appointed. The Returning Officer shall have absolute control of any election or appointment.
  - (ii) The Returning Officer so appointed:
    - (a) May or may not be a member of the Union; and
    - (b) Shall not be the holder of any office in, or an employee of, the organization or a branch, section, or division of the organization.
- (h) Appoint delegates to organisations or bodies to which the Divisional Branch is affiliated.
- (j) Receive and adopt or otherwise deal with the Annual Report and Balance Sheet of the Divisional Branch.
- (k) Impose levies not exceeding \$20 provided that in no circumstances shall any levy or levies amounting to more than \$20 in any half year be imposed on any member or members.
- (l) Subject to Rule 15 appoint a Public Accountant to audit the accounts of the Divisional Branch.
- (m) Institute and/or defend legal proceedings in matters affecting the affairs of the Divisional Branch.
- (n) Issue instructions regarding the registration of members desiring employment.
- (o) Direct the Divisional Branch Management Committee to carry out any of the provisions of the rules or the performance of any duties that may be considered necessary.
- (p) Frame by-laws for the purpose of assisting the work of administering the affairs of the Divisional Branch, provided such by-laws have been approved by the Industrial Registrar and are not in conflict with the General Rules.
- (q) Issue instructions for the holding of meetings of members at any time to discuss important matters.
- (r) Decide the number of Organisers under provisions of the Rules.

- (s) Appoint Temporary Organisers under provisions of the Rules.
  - (t) Overrule any decision of the Divisional Branch Management Committee.
- (5) Appoint two (2) scrutineers and the quota for the Divisional Branch of delegates to Trades and Labor Council or Trades Hall Council in each State and/or Territory.
- (a) Any member of the Divisional Branch who is financial shall be eligible to make application to be appointed as a scrutineer or as a delegate under this sub-rule.
  - (b) Applications shall be in writing signed by the applicant and endorsed by two financial members.
  - (c) Applications shall be called one month before such appointments, notice of which shall appear in the journal of the Divisional Branch or at least one daily newspaper circulating in the Divisional Branch area.
- (6) All deliberations of Divisional Branch Council shall be submitted to members at special summons meetings called for the purpose.

#### **41 – MEETING OF DIVISIONAL BRANCH COUNCIL**

- (a) The Divisional Branch Council shall meet at least biennially, a majority of members to form a quorum, the agenda of such Divisional Branch Council to be in the hands of delegates at least 14 days prior to Divisional Branch Council. Special Divisional Branch Council may be convened by the Divisional Branch Management Committee at any time provided that each delegate of Divisional Branch Council is given seven days' notice in writing prior to such meeting.

Meetings of the Divisional Branch Council shall be held at such time and place as shall be decided by the Divisional Branch Management Committee in terms of these rules.

The Divisional Branch Secretary shall arrange for notices of the meeting to be given to each Divisional Branch Councillor by letter, telegram, or telex or by telephone or verbally, provided that in the latter instances, such is confirmed by letter or telegram or telex.

- (b) Special meetings of the Divisional Branch Council shall be held if two thirds or more of the delegates of the Divisional Branch Council sign a petition calling for such a special Divisional Branch Council meeting.  
Provided also that the Divisional Branch Management Committee may cause a postal ballot of Divisional Branch Council Delegates to be taken on matters of urgency and that the decision of such ballot shall have the same force as a decision of Divisional Branch Council.

#### **42 – DIVISIONAL BRANCH MANAGEMENT COMMITTEE**

- (a) (i) Without affecting the term of office of persons holding office as Divisional Branch Management Committee members immediately prior to the date of certification of this sub-rule, the Divisional Branch Management Committee of the New South Wales Divisional Branch shall, on and from 2 January, 2013, or the declaration of the election in 2012, whichever is the later, consist of the Divisional Branch President, Divisional Branch Secretary, two Divisional Branch Assistant Secretaries and 26 other members elected by and from the members of the Divisional Branch.

No member shall hold any two of the above positions at any one time.

- (ii) (A) In the QNTDB there shall be a Divisional Branch Executive which shall consist of the following:
- A. the Divisional Branch President;
  - B. two (2) Divisional Branch Senior Vice-Presidents;
  - C. two (2) Divisional Branch Vice-Presidents;
  - D. Divisional Branch Secretary;
  - E. Divisional Branch Assistant Secretaries; and
  - F. two (2) Divisional Branch Executive Members.
- (B) Any reference in these rules or any rules of the union to the Divisional Branch Management Committee shall in the case of the Queensland Northern Territory Divisional Branch be taken so far as the context allows to be a reference to the Queensland Northern Territory Divisional Branch Executive established in accordance with this sub-rule.
- (iii) In the Australian Capital Territory the Divisional Branch Management Committee shall consist of the Divisional Branch President (which position shall be honorary), two (2) Divisional Branch Vice-Presidents (which positions shall be honorary), the Divisional Branch Secretary/Treasurer, the Divisional Branch Assistant Secretary and eleven other members. Provided however that there shall be at least one painter, 1 FEDFA (ie member eligible pursuant to National Rule 2(E)), 1 bricklayer, 4 builders labourers, 3 carpenters and one other representative elected from the classifications of stone-mason, slater and tiler, wall and floor tiler or plasterer on the Divisional Branch Management Committee.
- (iv) In Western Australia the Divisional Branch Management Committee shall consist of the Divisional Branch President, the Divisional Branch Senior Vice President, the Divisional Branch Vice President, the Divisional Branch Secretary, ~~two (2) the~~ Divisional Branch Assistant Secretary~~yies~~, the Divisional Branch Treasurer, three (3) Divisional Branch Trustees and five (5) Divisional Branch Management Committee members.
- (v) On and from 2 January 2013 or the declaration of the Divisional Branch elections in 2012, whichever is the later, the members of the Divisional Branch Management Committee of the Victoria-Tasmania Divisional Branch shall consist of the Divisional Branch President, Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, the Divisional Branch Senior Vice-President (FEDFA), the Divisional Branch Vice-President, the Sub-Branch Secretary and Sub-Branch President referred to in Rule 42B(ii) herein and 23 others consisting of 6 carpenters, 6 builders labourers, 2 painters/signwriters, 1 fibrous plasterer/fibrous plaster industry member, 6 others elected from the classifications of crane operations, rigger/dogman, plant and machine operators, boiler attendant/engine driver, production worker (metal), concrete pump operations, forklift operations, hoist operations and drilling/piling, and 2 other members elected from bricklayers, roof-tilers, stone masons, wall and floor tilers and solid plasterers, provided that at least one of whom shall be a bricklayer.

- (vi) In South Australia the Divisional Branch Management Committee shall consist of the Divisional Branch President, (which position shall be honorary), the Divisional Branch Vice President, the Divisional Branch Secretary, two Divisional Branch Assistant Secretaries, the Divisional Branch Treasurer, two (2) Divisional Branch Trustees, five (5) Divisional Branch Management Committee members and two (2) Organisers. The balance between full time officials, (excluding the Divisional Branch Secretary), and rank and file members on the Divisional Branch Management Committee shall approximate one third (1/3rd) paid officials to two thirds (2/3rd) non paid members.

Provided however that on and from the date of certification of this amendment there shall be one only Divisional Branch Assistant Secretary in the South Australian Divisional Branch.

- (b) A quorum for any meeting shall be a majority of the members of the Divisional Branch Management Committee who actually hold a position at the time of the commencement of the meeting or ten (10) members of the Divisional Branch Management Committee, whichever is the lesser.
- (c) The Divisional Branch Management Committee shall meet at least once each month and, subject to a review of their actions by the Divisional Branch Council shall have the care, control, superintendence, management and administration in all respects of the affairs, funds and property of the Divisional Branch and shall have all the powers of the Divisional Branch Council including, without limiting, the power, subject to rule 16 hereof, to amend or add to the rules.

Meetings of the Divisional Branch Management Committee shall be held at such time and place as shall be decided by the Divisional Branch Secretary and the Divisional Branch President, subject to the provisions of these rules.

The Divisional Branch Secretary shall arrange for notice of meetings to be given to each Divisional Branch Management Committee member by letter or any electronic means or telephone or verbally, provided that in the latter two instances, such is confirmed by letter, facsimile or electronic means.

- (d) The Committee shall carry out any duties which they have been directed to perform by the Divisional Branch Council under Rule 13.
- (e) They shall be responsible for the control and supervision of all officers. They may delegate this responsibility in respect to nominated classes of officers to the Divisional Branch Secretary for the exercise of this responsibility on a daily basis in between meetings of the Divisional Branch Management Committee on a temporary or ongoing basis and upon any terms or conditions they see fit; provided that such delegation may be revoked at any time by a subsequent meeting of the Divisional Branch Management Committee. They shall also deal with the proposed Divisional Branch Council Agenda prepared by the Divisional Branch Secretary.
- (f) They shall deal with applications for membership, claims for Tool and Funeral Benefit, also grants from Contingent Funds.
- (g) They shall issue instructions for prosecution for recovery of arrears and fines of members if, after due consideration such prosecution is deemed warranted; also for breaches of legislation, Awards, agreements and all matters in connection with Worker's Compensation Act.
- (h) They shall make provision for the registration of members for employment and issue instructions to the Divisional Branch Assistant Secretary for the supervision of the engagement of labour.
- (j) They shall be responsible for convening and conducting general meetings of the members, as provided for in the Rules.
- (k) They shall be responsible for the calling of any meetings necessary for the proper administration of the Divisional Branch, including meetings of members or stewards.

- (l) (i) They may impose penalties, including fines not exceeding the sum of \$100.00 on Divisional Branch Officers, councillors, members, committee persons or delegates representing the Divisional Branch for knowingly refusing to comply with the Rules, or the decisions of Divisional Branch Council or the Divisional Branch Management Committee, or knowingly refusing to carry out the policy of the Divisional Branch, provided that the Rules, decisions of Divisional Branch Council or Divisional Branch Management Committee are available to members in the minutes of the Divisional Branch Council or Divisional Branch Management Committee at the Divisional Branch Office.
- (ii) They may suspend, expel or dismiss from office, divisional branch officers, divisional branch councillors, members, committee members or delegates representing the Divisional Branch for misappropriation of the funds of the Divisional Branch or for a substantial breach of the rules of the Divisional Branch or for gross misbehaviour or gross neglect of duty.
- (m) Upon a petition being forwarded to the Divisional Branch Secretary, signed by 10% of the financial members, in respect of any district or any zone, except in the case of the Sydney zone where the petition must be signed by 5% of the financial members convene a special meeting of the membership, in that zone or trade district. The financial members, signing the petition must come from the zone or craft district for which a special meeting is being petitioned.
- (n) They shall satisfy themselves as to the integrity of employers of juvenile labour based upon a report of job or shop stewards or full-time officials.
- (o) They shall inform Apprenticeship Councils of the unsuitability of an employer to train apprentices.
- (p) A special meeting of the Divisional Branch Management Committee may be called by the Divisional Branch President and shall be called by the Divisional Branch President if he is so requested by not less than 40% of the representatives on the Divisional Branch Management Committee.
- (q) They shall from among themselves elect a Divisional Branch Vice President and Divisional Branch Trustees such Divisional Branch Vice Presidents and Divisional Branch Trustees shall be elected for a 4 year term of office (or otherwise in accordance with rule 38(b)). Any member of the Divisional Branch Management Committee may nominate themselves for any such position by notice in writing to the Returning Officer. In any election the procedure to be followed shall be, the necessary changes being made, the procedure for the election of Divisional Executive in accordance with Construction and General Divisional Rule 9 which shall occur at the first meeting of the Divisional Branch Management Committee after the assumption of office of that Committee following the general elections.
- (r) The Divisional Branch Management Committee shall have the power to appoint temporary organisers whenever this is considered necessary. They shall not, by virtue only by their appointment as temporary organisers, be Officers of the Branch nor shall they, by virtue only by their appointment as temporary organisers, exercise any function of management, but shall act as directed by the Divisional Branch Secretary. Such appointments are subject to satisfactory performance of their allocated duties. Except where the context otherwise necessitates, the term 'organiser' where used in these Rules shall not include temporary organisers.

The Divisional Branch Management Committee may, with the consent of a state registered counterpart union and an officer or employee thereof, by resolution, appoint the said officer and/or employee, or any one of them, as an employee of the Divisional Branch, and for that purpose reach agreement with the said officer/employee and the said state registered counterpart union as to how much, if any, of the wages of the person/s so appointed shall be contributed by the Divisional Branch.

In such case such an appointee shall:-

- (i) be an employee of the Divisional Branch if and only if, and only to the extent that they are performing functions that are necessarily and expressly functions of the Divisional Branch and not the state registered counterpart union;
  - (ii) during that period, be subject to the direction and control of the governing bodies of the Divisional Branch in accordance with these rules, but only when acting in that capacity, and
  - (iii) be entitled to those rights conferred on employees of a registered organisation by the Workplace Relations Act 1996 or any successor legislation thereto.
- (s) A loan, grant or donation of an amount exceeding \$1,000 shall not be made by this Divisional Branch unless the Divisional Branch Management Committee -
- (a) has satisfied itself -
    - (i) that the making of the loan, grant or donation would be in accordance with the rules of the Union; and
    - (ii) in relation to a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and
  - (b) has approved the making of the loan, grant or donation.
- (t) The Divisional Branch Management Committee, on receipt of a petition signed by not less than 10% of the financial members of the Divisional Branch, shall convene a special Divisional Branch Council meeting or conduct a ballot of Divisional Branch Council in respect of any matter determined by the Divisional Branch Management Committee, to which members are objecting.

#### **42A – DIVISIONAL BRANCH EXECUTIVE COMMITTEE (VICTORIA-TASMANIA)**

- (i) In the Victoria-Tasmania Divisional Branch there shall be a Divisional Branch Executive Committee consisting of the Divisional Branch President, the Divisional Branch Senior Vice-President (FEDFA), the three Divisional Branch Vice-Presidents, the Divisional Branch Vice-President (FEDFA), the Divisional Branch Secretary, the Divisional Branch Assistant Secretary and the Divisional Branch Assistant Secretary (FEDFA). Provided however that on and from 2 January 2013 or the declaration of the election in 2012 whichever is the later, the Divisional Branch Executive Committee of the Victoria-Tasmania Divisional Branch shall consist of the Divisional Branch President, the Divisional Branch Senior Vice-President, the Divisional Branch Vice-President, the Divisional Branch Secretary and the two Divisional Branch Assistant Secretaries.
- (ii) The Divisional Branch Executive Committee shall meet at least fortnightly or as the need arises.
- (iii) The Divisional Branch Executive Committee shall have the care, control, superintendence, management and administration in all respect of the affairs, funds and property of the Divisional Branch in between meetings of the Divisional Branch Management Committee and subject to a review of their actions by the Divisional Branch Management Committee.

**42B – DIVISIONAL BRANCH SUB-BRANCH MANAGEMENT COMMITTEE (VICTORIA-TASMANIA)**

- (i) On and from the date of certification of this sub-rule and until 2 January, 2013 or the declaration of the Divisional Branch elections in 2012, whichever is the later, there shall be a Sub-Branch Management Committee of the Victoria-Tasmania Divisional Branch, (Tasmania Sub-Branch), the members of which shall consist of the following persons who were, immediately prior to this rule taking effect, members of the Tasmanian Divisional Branch Management Committee:-

Name	Office Held within Tasmanian Divisional Branch	Office Held within Victoria-Tasmania Divisional Branch
Bill White	Divisional Branch Secretary	Sub-Branch Secretary
Dale Cracknell	Divisional Branch President	Sub-Branch President
Michael Van de Kamp	Divisional Branch Management Committee Member	Sub-Branch Management Committee Member
Michael Norris	Divisional Branch Management Committee Member	Sub-Branch Management Committee Member
Mick Huxley	Divisional Branch Management Committee Member	Sub-Branch Management Committee Member
Roy Smedley	Divisional Branch Management Committee Member	Sub-Branch Management Committee Member
Paul Rainey	Divisional Branch Management Committee Member	Sub-Branch Management Committee Member
Dickie Post	Divisional Branch Management Committee Member	Sub-Branch Management Committee Member

- (ii) On and from 2 January, 2013 or the declaration of the Divisional Branch elections in 2012, whichever is the later, the members of the Sub-Branch Management Committee of the Victoria-Tasmania Divisional Branch shall consist of the Sub-Branch Secretary, the Sub-Branch President and six (6) other persons all of whom shall be elected by and from members of the Victoria-Tasmania Divisional Branch who are residing or employed in the State of Tasmania.
- (iii) The Victoria-Tasmania Divisional Branch Council and Divisional Branch Management Committee shall have the care, control superintendence, management and administration in all respects of the affairs, business and funds and property of the Victoria-Tasmania Divisional Branch. Provided however that the Sub-Branch Management Committee shall have the power to make recommendations to the Divisional Branch Council and Divisional Branch Management Committee in respect of the administration, or matters affecting the interests of, the Divisional Branch in the State of Tasmania only. Further provided that the Victoria-Tasmania Divisional Branch shall have the control and management of all funds, assets and liabilities that had been controlled, held or managed by the Tasmanian Divisional Branch and the Victorian Divisional Branch immediately prior to the certification of this sub-rule.

**43 – DUTIES OF DIVISIONAL BRANCH PRESIDENT**

- (a) The Divisional Branch President shall preside at meetings of the Divisional Branch Council or Divisional Branch Management Committee and meetings convened by the Divisional Branch Council or Divisional Branch Management Committee.



- (b) (i) The Divisional Branch President, during such term of office shall hold no other position within the Divisional Branch provided for in these Divisional Branch Rules. Provided however that the position of Divisional Branch delegate to Divisional Conference shall not be considered as a position within the Divisional Branch for the purpose of this sub-rule. Further provided that in the case of the NSW Divisional Branch, this sub-rule shall not prevent the Divisional Branch Management Committee from designating the Divisional Branch President as Acting Divisional Branch Secretary in accordance with Rule 47(b) herein, or the Divisional Branch President so designated from acting in that capacity.
- (ii) In the New South Wales Divisional Branch and the Victoria-Tasmania Divisional Branch, the Divisional Branch President shall be employed in a full-time capacity.
- (c) The Divisional Branch President shall carry out such duties as may be assigned from time to time by the Divisional Branch Management Committee, and by the Divisional Branch Secretary acting on their behalf.
- (d) The Divisional Branch President shall conduct business in accordance with Rules laid down for his/her guidance. The Divisional Branch President shall not enter debate on any question except by leave of the Divisional Branch Management Committee, but shall endeavour to bring the business to a satisfactory conclusion. The Divisional Branch President shall have a casting vote only.
- (e) The Divisional Branch President shall sign the minutes of proceedings of Divisional Branch Council, Divisional Branch Management Committee, or any meeting convened by the Divisional Branch Council or Divisional Branch Management Committee when same have been duly confirmed.
- (f) The Divisional Branch President shall examine bank vouchers setting out bank balance, record of each banking transaction, countersign all orders of payment of any money authorised by the Divisional Branch Council or Divisional Branch Management Committee which is in accordance with Rules.
- (g) The Divisional Branch President shall cause to be entered in the minutes of the Divisional Branch Management Committee a record of all payments, monies received and banked and statement of cash in hand.
- (h) The Divisional Branch President may be required by resolution of the Divisional Branch Council or Divisional Branch Management Committee to attend to any business concerning the finances and administration of the Divisional Branch either in connection with the Divisional Branch Council, Divisional Branch Management Committee or District Committees, and shall if so required submit a report in writing of the findings to the Divisional Branch Council and Divisional Branch Management Committee members.
- (j) The Divisional Branch President shall be an ex-officio member of all Committees of the Divisional Branch.
- (k) In the New South Wales Divisional Branch, in the absence of the Divisional Branch President the Divisional Branch Management Committee shall designate one of the Divisional Branch Assistant Secretaries as the Acting Divisional Branch President.

#### **44 – DIVISIONAL BRANCH VICE PRESIDENT**

- (i) Except in the New South Wales Divisional Branch, the Victoria-Tasmania Divisional Branch, the Queensland and Northern Territory Divisional Branch and the ACT and Western Australian Divisional Branches the Divisional Branch Vice-President shall be elected by the Divisional Branch Management Committee from among its members and shall preside at meetings in the absence of the Divisional Branch President, and shall carry out the duties of the Divisional Branch President and such duties as may be required by resolution of the Divisional Branch Council or Divisional Branch Management Committee which are in accordance with these rules.
- (ii) Notwithstanding any contrary provisions in these rules, in the integrated South Australian Divisional Branch the Divisional Branch Vice-Presidents shall, commencing with the persons elected to that office as from 2 January, 1997, be elected by and from the members of the Divisional Branch.
- (iii) In Victoria-Tasmania the Divisional Branch Vice-Presidents shall have such duties and responsibilities as may be determined from time to time by the Divisional Branch Council or the Divisional Branch Management Committee.
- (iv) In Victoria-Tasmania the Divisional Branch Vice-President (FEDFA) shall, in addition to any other duties and responsibilities as may be determined from time to time by Divisional Branch Council or the Divisional Branch Management Committee and which may be applicable to the Divisional Branch Vice-Presidents generally, carry out such other functions, and exercise such other powers, in relation to the FEDFA Section of the Branch (where the Divisional Branch Council has created any such Section), as may be determined by the Divisional Branch Council or Divisional Branch Management Committee from time to time.

#### **45 – DIVISIONAL BRANCH TRUSTEES**

- (a) Except in the case of the South Australian Divisional Branch, the Divisional Branch Management Committee shall elect from among themselves, three trustees. The election shall be conducted in accordance with Rule 42(q). Provided however that there shall be no trustees in the New South Wales Divisional Branch.

On a written authority signed by the Divisional Branch President and the Divisional Branch Secretary any two of the three Divisional Branch Trustees shall sign cheques for such sums as may be voted by the Divisional Branch Council or Divisional Branch Management Committee in accordance with these Rules. Such cheques to be counter signed by the designated Divisional Branch Assistant Secretary. The designated Divisional Branch Assistant Secretary will be determined by the State Management Committee or equivalent body.

In the New South Wales Divisional Branch either the Divisional Branch Secretary and the Divisional Branch President, or the Divisional Branch Secretary or the Divisional Branch President and such other person as is nominated by the Divisional Branch Management Committee from time to time, shall sign cheques for such sums as may be authorised in accordance with these rules. Provided however that the nomination referred to herein may be on such terms as determined by the Divisional Branch Management Committee and may be revoked at any time. Further provided that all expenditure of the Divisional Branch shall be placed before the Divisional Branch Management Committee for consideration and ratification.

- (b) In the South Australian Divisional Branch, there shall be two trustees elected by and from the membership of the Divisional Branch and such Trustees shall take up office on and from 2 January, 1997 and each four years thereafter (or in the event of a delay in the conduct of an election, in accordance with rule 38(b)). In the absence of either the Divisional Branch President or Divisional Branch Secretary or Divisional Branch Treasurer the Divisional Branch Assistant Secretary shall sign cheques for such sums as may be approved by the Divisional Branch Council or Divisional Branch Management Committee in accordance with these rules. In the absence of more than one of the three first mentioned officers in the second sentence of this sub-rule, one or more of the Divisional Branch Trustees shall countersign such cheques with the remaining officer and/or the Divisional Branch Assistant Secretary.

The Divisional Branch Trustees shall assist the Divisional Branch Treasurer in carrying out his/her duties.

- (c) The funds of the Divisional Branch shall be banked in an account styled in the name of the Divisional Branch.
- (d) The Divisional Branch Trustees shall have powers and immunities as conferred by statute on such Trustees.

#### **46 – DUTIES OF DIVISIONAL BRANCH SECRETARY**

- (a) The Divisional Branch Secretary shall be under the control of the Divisional Branch Council and the Divisional Branch Management Committee and shall be employed in a full time capacity, and shall conduct correspondence in connection with all industrial matters and in general administration of the Divisional Branch.
- (b) The Divisional Branch Secretary shall be responsible for the carrying out of the decisions made by the Divisional Branch Council or Divisional Branch Management Committee.
- (c) The Divisional Branch Secretary shall be responsible for the enforcement of all Awards and Industrial Agreements and shall supervise the conduct of all wages claims, compensation matters and legal matters coming within the jurisdiction of the Divisional Branch Council or Divisional Branch Management Committee.
- (d) The Divisional Branch Secretary shall cause to be prepared and forwarded to the Industrial Registrar, returns as required by law.
- (e) The Divisional Branch Secretary shall have prepared a properly audited financial statement of receipts and payments and all the funds and effects of the Divisional Branch Office, together with a statement of the assets and liabilities of the Divisional Branch Office for the financial year ending 31st December. Provided however that the financial year for the Divisional Branches shall, on and from 1 April 2017, and for each year thereafter, commence on and from 1 April each year and end on 31 March of each following year.
- (f) The Divisional Branch Secretary shall prepare the agenda for and minutes of each Divisional Branch Council meeting; and shall attend meetings of the Divisional Branch Council, Divisional Branch Management Committee and other meetings called by the Divisional Branch Council or Divisional Branch Management Committee.
- (g) The Divisional Branch Secretary shall be responsible for the production of Divisional Branch publications.
- (h) The Divisional Branch Secretary shall be responsible for the itinerary of organisers duties.

**(2) ATTENDANCE OF ORGANISERS ELECTED AT MEETINGS OF DIVISIONAL BRANCH COUNCIL AND DIVISIONAL BRANCH MANAGEMENT COMMITTEE**

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- (j) The Divisional Branch Secretary shall be an ex officio member of all committees of the Divisional Branch.
- (k) The Divisional Branch Secretary shall be an elected delegate to Divisional Conference by virtue of his/her office.

**47 – DUTIES OF DIVISIONAL BRANCH ASSISTANT SECRETARY**

- (a) The Divisional Branch Assistant Secretary/ies (if any) shall be under the control of the Divisional Branch Council and the Divisional Branch Management Committee, and shall work under the direction of the Divisional Branch Secretary. They shall attend all meetings of the Divisional Branch Council and the Divisional Branch Management Committee.
- (b) The Divisional Branch Assistant Secretary/ies shall, in the absence of the Divisional Branch Secretary, fulfil the office and perform the duties of the Divisional Branch Secretary. Where there is more than one Assistant Secretary, the Divisional Branch Management Committee shall designate one of the Assistant Secretaries to perform the duties. Provided however that in the case of the NSW Divisional Branch, the Divisional Branch Management Committee shall designate from amongst the Divisional Branch President and the Divisional Branch Assistant Secretaries, the officer who shall fulfil the office and perform the duties of the Divisional Branch Secretary.

**48 – (1) DUTIES OF ORGANISERS**

- (a) They shall be under the control and supervision of the Divisional Branch Management Committee and shall carry out their duties within the provisions of the Rules.
- (b) They shall visit shops and jobs where members of the Divisional Branch and other workers eligible to join are employed and endeavour to enrol new members. They shall co-operate with all Shop and Job Stewards and District Secretaries, and carry out organisational work in any part of the State or Territory as directed by the Divisional Branch Management Committee.
- (c) Nothing in this rule affects the right of an organiser elected, in accordance with the rules of the Divisional Branch, as a member of either the Divisional Branch Management Committee or the Divisional Branch Council.

**(2) ATTENDANCE OF ORGANISERS ELECTED AT MEETINGS OF DIVISIONAL BRANCH COUNCIL AND DIVISIONAL BRANCH MANAGEMENT COMMITTEE**

- (a) An elected Organiser who is not otherwise a member of the Divisional Branch Management Committee shall attend any meeting of the Divisional Branch Management Committee when requested so to do by resolution of Divisional Branch Management Committee. An elected or temporary Organiser shall be allowed to attend a meeting of the Divisional Branch Management Committee if the Organiser desires so to do unless otherwise directed by the Divisional Branch Management Committee.

Such an Organiser may by permission of the Divisional Branch Management Committee speak on any matter before the meeting, but shall not move, second or vote on any question.

- (b) Each elected Organiser who is not otherwise a member of the Divisional Branch Council shall attend the meetings of Divisional Branch Council when required so to do by resolution of Divisional Branch Management Committee, but shall not move, second or vote on any question.

**48A – DUTIES OF DIVISIONAL BRANCH TREASURER**

- (a) In the South Australian Divisional Branch, the Divisional Branch Treasurer shall:
- (i) obtain and receive such details of all moneys collected or received and banked by him/her as are necessary for the keeping of the books of accounts.
  - (ii) in conjunction with any two of the following - Divisional Branch Secretary, Divisional Branch Assistant Secretary, Divisional Branch Senior Vice-President or Divisional Branch President - sign all cheques and attend all meetings of the Divisional Branch Management Committee.
  - (iii) keep all necessary books of accounts and produce same for inspection at any time when called upon to do so by the Divisional Branch Committee of Management or auditors.
  - (iv) at each meeting of the Divisional Branch Committee of Management present a report of the Divisional Branch's financial transactions for the period since the immediately preceding meeting.
- (b) In the Western Australian Divisional Branch, the Divisional Branch Treasurer shall:
- (i) draw up a report and balance sheet for submission to members in the months of January and July and submit his or her books and accounts to the Auditor half-yearly;
  - (ii) receive all moneys and pay them into the bank account of the Divisional Branch immediately, with the exception of petty cash not exceeding five hundred dollars (\$500.00) at any one time;
  - (iii) keep a distinct and intelligible account of all moneys received and expended, with vouchers detailed therefore;
  - (iv) submit a statement of his or her receipts and expenditure every three months to the members of the Divisional Branch attending a General Meeting;
  - (v) not make any payment, other than for his or her own travelling and accommodation expenses incurred whilst on union business, exceeding twenty dollars (\$20.00) except by cheque.

**48B – DUTIES OF DIVISIONAL BRANCH SENIOR VICE-PRESIDENT (FEDFA) (VICTORIA-TASMANIA)**

- (1) This rule applies only in relation to the Victoria-Tasmania Divisional Branch.
- (2) The Divisional Branch Senior Vice-President (FEDFA) shall preside at meetings of the Divisional Branch Council or Divisional Branch Management Committee, or meetings convened by either of these bodies, in the absence of the Divisional Branch President, and shall perform such other functions in relation to meetings, in the absence of the Divisional Branch President, as may otherwise be required of the Divisional Branch President.
- (3) The Divisional Branch Senior Vice-President (FEDFA) shall carry out such duties as may be assigned to him or her from time to time by the Divisional Branch Management Committee.
- (4) The Divisional Branch Senior Vice-President (FEDFA) shall carry out such other functions, and exercise such other powers, in relation to the FEDFA Section of the Branch, as may be determined by the Divisional Branch Council from time to time.(5) The Divisional Branch Senior Vice President (FEDFA) shall be employed in a full-time capacity.

- (6) The Divisional Branch Senior Vice-President (FEDFA) shall be an ex-officio member of all Committees of the Divisional Branch.

**48C – DUTIES OF DIVISIONAL BRANCH ASSISTANT SECRETARY (FEDFA)**

- (1) This rule applies only in relation to the Victoria-Tasmania Divisional Branch.
- (2) The Divisional Branch Assistant Secretary (FEDFA) shall be under the control of the Divisional Branch Council and the Divisional Branch Management Committee, and shall, subject to sub-rule (3) hereof, work under the direction of the Divisional Branch Secretary.
- (3) The Divisional Branch Assistant Secretary (FEDFA) shall carry out such other functions, and exercise such other powers, in relation to the FEDFA Section of the Branch, as may be determined by the Divisional Branch Council from time to time.
- (4) The Divisional Branch Assistant Secretary (FEDFA) shall attend all meetings of the Divisional Branch Council and Divisional Branch Management Committee.
- (5) The Divisional Branch Assistant Secretary (FEDFA) shall be employed in a full-time capacity.
- (6) The Divisional Branch Assistant Secretary (FEDFA) shall be an ex-officio member of all Committees of the Divisional Branch.

**48D – DUTIES OF DIVISIONAL BRANCH SENIOR VICE-PRESIDENT (WESTERN AUSTRALIA)**

Notwithstanding the provisions of any other rule relating to the duties of Divisional Branch officers, in the Western Australian Divisional Branch the duties of the Divisional Branch President shall, in his or her absence, be performed by the Divisional Branch Senior Vice President.

In the absence of both the Divisional Branch President and the Divisional Branch Senior Vice President, the Divisional Branch Vice President shall perform the duties of the Divisional Branch President. In the simultaneous absence of the Divisional Branch President, Divisional Branch Senior Vice President and Divisional Branch Vice President, the Divisional Branch Management Committee may appoint a member to carry out the duties of the President.

**48E – DELETED**

**48F – DIVISIONAL BRANCH SENIOR VICE-PRESIDENTS/DIVISIONAL BRANCH VICE-PRESIDENTS (QUEENSLAND)**

- (i) This rule applies only in relation to the QNTDB and notwithstanding the provisions of any other rule relating to the duties of Divisional Branch officers.
- (ii) In the QNTDB there shall be two Divisional Branch Senior Vice-Presidents one of whom shall, in the absence of the Divisional Branch President, preside at meetings of, or convened by, the Divisional Branch Council or Divisional Branch Executive. The Divisional Branch Executive will determine, for the purposes of this sub-rule, which of the Divisional Senior Vice-Presidents is to so act.
- (iii) The Divisional Branch Senior Vice-Presidents in the QNTDB shall have such other duties and responsibilities as may be determined from time to time by the Divisional Branch Executive.

- (iv) The Divisional Branch Vice-Presidents in the QNTDB shall have such duties and responsibilities as may be determined from time to time by the Divisional Branch Executive.

#### **49 – FULL TIME PAID OFFICERS**

- (a) A member who has been elected to any positions in a full-time capacity shall be employed full time in the service of the Divisional Branch and be paid such weekly wage as shall be determined at a properly constituted meeting of the Divisional Branch Council; provided however, that the rate fixed shall not be less than the leading hand rate in the highest major Award for carpenters in the building industry.
- (b) Full-time paid officers shall be under the control of the Divisional Branch Management Committee between Divisional Branch Council meetings and shall carry out all instructions of the Divisional Branch Council or Divisional Branch Management Committee in accordance with the Rules.
- (c) Should a full-time paid officer desire to resign they shall give one (1) month's notice in writing of his intention so to do to the Divisional Branch Management Committee.
- (d) A full-time paid officer shall not work for any other person, body or corporation for profit or reward, or at all, during their term of office without the sanction of the Divisional Branch Council first being obtained.
- (e) Should any full-time officer through illness or any other physical disability be unable to carry out the duties as prescribed by the Rules, the officer shall furnish a medical certificate to the Divisional Branch Management Committee within seven days of becoming unable to carry out the duties setting out the nature of the disability, and the duration of such incapacity so far as the same can be estimated, and before resuming duties the officer shall furnish to the Divisional Branch Management Committee a medical certificate setting out that he/she has recovered and is capable to carry out the duties in accordance with the Rules.

#### **50 – DUTIES OF MEMBERS OF DIVISIONAL BRANCH MANAGEMENT COMMITTEES**

- (i) The members of the Divisional Branch Management Committee shall attend meetings of the Divisional Branch Management Committee and of the Divisional Branch Council.

#### **51 – REMOVAL OF OFFICERS AND COUNCILLORS (BRANCH AND DISTRICT)**

- (a) The position of any divisional branch officer or Divisional Branch Councillor or delegate to Divisional Conference shall become vacant upon:
  - (i) His/her becoming unfinancial;
  - (ii) His/her decease or becoming of unsound mind and body;
  - (iii) His/her resignation in writing addressed to the Divisional Branch Secretary.
- (b) Any officer of a divisional branch may be removed from office by a two-thirds majority of that Divisional Branch Management Committee at a special meeting of the Divisional Branch Management Committee called for the purpose where the officer has been charged and found guilty in accordance with the rules of the Divisional Branch of misappropriation of the funds of the Divisional Branch or a substantial breach of the rules of the Divisional Branch or gross misbehaviour or gross neglect of duty or has ceased, according to these rules to be eligible to hold office.

- (c) Any officer of Divisional Branch Council or District Committee member charged may be suspended immediately by decision of the Divisional Branch Management Committee pending hearing of the charges against that officer.

Charges must be laid in writing setting out the particulars of the alleged violation of rules. The officer or Divisional Branch Councillor or District Committee member charged shall be given reasonable opportunity to attend the meeting at which the charges are heard and of being heard in his defence, or if the officer prefers, may answer the charges in writing.

In case of an appeal against any suspension or penalty or dismissal the grounds for such suspension or penalty or dismissal together with the appeal of the officer suspended, shall be fully set out and submitted to Divisional Branch Council as soon as it is conveniently possible from the date of decision. Rule 55 - Appeals of Members shall apply.

## **52 – DUTIES OF MEMBERS**

- (a) It shall be the duty of members to attend meetings and record their votes in all ballots and questions that are submitted to them by the authorised body in the Divisional Branch.
- (b) They shall give written notice of change of address within fourteen (14) days. No unnotified change of address or classification shall give rise to any irregularity or liability in the union and the unions records as to the classification, class, industry, division, occupation, address or any other matter relevant to any right under these rules shall, insofar as such information has been provided by or to the member, shall be binding and conclusive as to its truth.
- (c) They shall endeavour to improve the organisation and see that all Rules, including local or district registered working Rules are observed, and co-operate with officers and all Divisional Branch representatives accredited by the Divisional Branch Management Committee.
- (d) Notwithstanding anything contained in these Rules, no member shall be required to do or omit to do any act, which would be a breach of the Industrial Relations Act, or the Award governing his calling.

## **53 – MISCONDUCT OF MEMBERS**

- (a) A member knowingly violating any registered Rule or By-Law of the Divisional Branch may be fined a sum not exceeding \$100 by the District Committee. Should, however, the matter be referred to the Divisional Branch Management Committee, they shall have the power to fine a sum not exceeding \$100 expel or suspend from benefit for a period not exceeding six months for such offence.
- (b) Any member acting in a disorderly manner during a meeting or acting in opposition to the ruling of the Presiding Officer may be fined a sum not exceeding \$20 and should he persist the Presiding Officer shall have power to call on the members to expel that member from such meeting.
- (c) It shall be competent for the Divisional Branch Management Committee to inflict a fine not exceeding \$20.00, suspend from benefit for a period not exceeding six months, any member from the Divisional Branch upon satisfactory proof being given that such member has knowingly refused to comply with decisions of the Divisional Branch Council or the Divisional Branch Management Committee.
- (d) It shall be competent for the Divisional Branch Management Committee to expel any member for misappropriation of the fund of the Divisional Branch or for a substantial breach of the Rules of the Divisional Branch or for gross misbehaviour or gross neglect of duty.



- (e) Charges under these Rules shall be made in writing within one (1) month of the discovery of the incident to which it refers, to the District Committee or the Divisional Branch Management Committee.

The members so charged shall be summoned to attend a meeting of Committee or Management Committee by a written notice giving the short substance of the charges and notifying the time and place of meeting. Such notice shall be posted to the members last known place of abode not less than five (5) days, or in the case of a member whose last known place of abode is situated more than 100 miles from the place where the charge is to be heard, not less than ten (10) days, before the date of such meeting.

At the appointed time and place the charge shall be investigated either by the District Committee or Divisional Branch Management Committee, whether or not the member shall be in attendance.

The decision of the Committee or Management Committee shall be binding on the member, subject to right of appeal. A member charged shall be given a reasonable opportunity to be heard in their defence and may if the member desires answer the charges in writing.

Any member making a charge which upon investigation proves to be false or frivolous shall be dealt with as the Divisional Branch Council or Divisional Branch Management Committee may decide.

#### **54 – PAYMENT OF FINES**

A member who is fined for any offence under these Rules shall pay such fine within 21 days following the date of the imposition of the fine. Should the fine not be paid, the amount due shall be added to the member's annual account.

#### **55 – APPEALS OF MEMBERS**

- (a) Any member or members finding themselves aggrieved or having any complaint against the officers or members of the Union may make a written appeal to the District Committee for redress, who shall in the case of appeals on any matter that does not relate to the District management forward the appeal to the Divisional Branch Management Committee within one month.
- (b) Any members dissatisfied with the decision of the District Committee may appeal to the Divisional Branch Management Committee within one month of the decision being given.
- (c) Any member dissatisfied with the decision of the Divisional Branch Management Committee may appeal against the decision to the Divisional Branch Council within one (1) month after the hearing of his case by the Divisional Branch Management Committee.
- (d) An appeal shall be in writing and shall be lodged with the Divisional Branch Secretary. The appeal shall set forth concisely the grounds on which it is based and the Divisional Branch Management Committee or Divisional Branch Council shall review the evidence taken at the original hearing of the charge, whereupon the Divisional Management Committee or Divisional Branch Council may confirm, annul or modify the penalty.

Should the appellant desire to appear in person before the Divisional Branch Management Committee or Divisional Branch Council the appellant member shall be afforded the opportunity to do so.

### **56 – DISTRICT COMMITTEES**

- (a) District Committees shall be on a trade or zone basis as provided for in the rules.

Both Zone and Trade District Committees shall be regarded as District Committees and shall be established in accordance with the Rules for the purpose of carrying out organisational work and to co-operate with the Divisional Branch Council or Divisional Branch Management Committee in the administration of the Divisional Branch.

- (b) The Divisional Branch Council may make such by-laws as it sees fit, not inconsistent with the rules of the Union, for the effective operation of Districts and District Committees including to the extent thought necessary the election of District Officers, their duties, the finances thereof and any other matter pertaining thereto.

### **57 – SHOP STEWARDS/JOB DELEGATES**

Shop stewards/job delegates may be appointed by the Divisional Branch Management Committee or appointed by the members in such shop or job. They shall receive proper credentials from the Divisional Branch Management Committee.

- (a) It shall be the duty of all shop stewards/job delegates to endeavour to enrol appropriate workers in their respective shops or jobs into the Union.
- (b) They may receive contributions from members in such shops or jobs and issue a receipt from a receipt book provided by the Divisional Branch Management Committee.
- (c) They shall be responsible for the payments of all monies received by them to the Divisional Branch fortnightly.
- (d) They shall from time to time furnish written reports to the Divisional Branch Management Committee of the industrial conditions pertaining in such shop or job.
- (e) Immediately on conclusion of his employment as a shop steward/job delegate shall return the receipt book to the Divisional Branch Assistant Secretary and obtain an acknowledgement of same.

Shop stewards/job delegates shall return the receipt book for audit twice each year in the months of January and July, or when so required by the Divisional Branch Management Committee to the Divisional Branch Assistant Secretary.

### **58 – VICTIMISATION**

Should any District Secretary, Town Steward, Shop or Job Steward be victimised or reasonably supposed to be victimised for carrying out any duties of the Union, the Divisional Branch Management Committee shall take all necessary steps to see that his interests are protected.

### **59 – ALLOWANCES**

The Divisional Branch Council may determine in any year the allowances, if any, to be paid to persons representing the Divisional Branch or attending meetings at the request of the Divisional Branch or for its purposes.

### **60 – TOOL BENEFIT**

The Divisional Branch Council may establish a tool benefit for the compensation of members whose tools are lost by fire, theft or accident.

### **61 – FUNERAL BENEFIT**

The Divisional Branch may pay out of its funds a funeral benefit to representatives of deceased members. The criteria for eligibility of the funeral benefit to be determined by the Divisional Branch Management Committee.

### **62 – CONTINGENT FUND**

If the Divisional Branch establishes a Contingent Fund, it may be used for the payment of contributions of members who have been financial members for a period of 12 months, and whose payments have not been met due to unemployment, sickness or other reasonable cause.

### **63 – RULES OF DIVISIONAL BRANCHES AND BY-LAWS**

1. Any Divisional Branch may make By-Laws in furtherance of any of the rules contained herein or for the proper functioning of the Divisional Branch or for the proper functioning of any District or Divisional Sub-Branch thereof.
2. Such By-Laws shall be effective and binding on any member to which they would apply.
3. Such By-Laws shall not be inconsistent with any of the rules of the union and shall, to the extent of any inconsistency, be void, ineffective and inoperative.

### **64 – STANDING ORDERS AND RULES OF DEBATE – GENERAL MEETINGS**

(a) Order of Business:

1. Opening of meeting.
2. Reading and adoption of minutes of previous meeting.
3. Admission of new members.
4. Election of Officers.
5. Divisional Branch Management Committee minutes.
6. Adjourned business.
7. Reading of Correspondence.
8. Auditor's Report.
9. Report of delegates.
10. Secretary's Cash Account.
11. New business.

- (b) The first member who attracts the attention of the Divisional Branch President shall have precedence in speaking.
- (c) Members addressing the meeting shall direct their speech to the Presiding Officer and remain standing while so doing.
- (d) No discussion shall be permitted unless there is a motion before the meeting. Any such motion shall be duly proposed and seconded. Any number of amendments may be proposed and discussed simultaneously with the original motion.
- (e) When a motion shall have been duly proposed and seconded, the Divisional Branch President shall proceed at once to take the votes thereon unless some member rises to oppose or to propose an amendment, but no amendment shall be in order unless notice is given to move the same before the proposer of the resolution has replied.
- (f) No more than two members shall speak in succession on one side, either for or against any question before the meeting, and if at the conclusion of the second speaker's remarks no member rises to speak on the other side, the motion or amendment shall be put at once to the meeting.
- (g) It shall be competent at any time during a debate for a member to move, without discussion, "That the question be now put," which, on being duly seconded and carried, shall necessitate the submission of the motion at once to the meeting after the mover has replied.
- (h) In the event of a number of amendments being proposed and discussed the Divisional Branch President shall put them to the vote in the following order: The first amendment shall be voted on, if carried it becomes the motion. If defeated, the original motion stands. The second amendment is then voted on, if carried it becomes the motion. If defeated, the motion stands, that is, the original motion or the first amendment, if carried.  
  
All subsequent amendments shall be dealt with in this order. After the vote on each succeeding amendment has been taken, the surviving proposition shall be put to the vote as the motion, and if carried, becomes a resolution of the meeting.
- (i) No member shall be allowed to speak more than once on the motion, except strictly in explanation, excepting the mover of the original motion, who shall have the right of reply. The mover of the motion shall be allowed 10 minutes to move the motion and 5 minutes to reply. No other speaker shall occupy a longer period than 5 minutes.  
  
The meeting may, however, grant an extension of time to any speaker. No further discussion shall take place nor shall questions be allowed after the mover has replied.
- (j) A resolution may, during the meeting at which it was passed be recommitted on the affirmative vote of two-thirds of those present at such meeting. A resolution may be rescinded by the giving of one month's notice and a majority vote being cast at the meeting subsequent to the expiry of the month's notice.
- (k) On any member rising to a point of order during discussion, the speaker shall sit down and such member on rising shall state the point of order when the Divisional Branch President shall rule thereon. Such ruling shall be final, provided that it is not disagreed with by a majority of those present.
- (l) Questions of order shall be decided by the Chairman, whose ruling shall be final, unless it is challenged by a formal motion for that purpose.

- (m) The Divisional Branch President or Chairman for the time being may speak only on questions in which the interests of the office they represent are directly involved. In the event of the Divisional Branch President or Chairman desiring to speak on any question they shall vacate the chair.
- (n) Should any question have occupied the attention of the meeting for thirty (30) minutes, the discussion on such question shall be deemed to have closed, and the Divisional Branch President shall forthwith call on the mover to reply, unless the meeting decides by resolution (carried by a majority of the members present) to continue the discussion of the matter in question.
- (o) At any meeting of the Divisional Branch any member entitled to be present may give notice of motion for a future meeting by (1) reading such notice to the meeting, or (2) handing a copy thereof to the Divisional Branch President. Such notice of motion shall take precedence in the order in which it stands in the minutes book in relation to other similar notices, unless otherwise ordered, and shall lapse if the member, or some member on their behalf, be not present when the order of the day for such notice is read.

No motion for the adjournment of the meeting shall be received while there is business before the Divisional Branch President.

#### MOVING DISSENT FROM CHAIRPERSON'S RULING

- (p) Any member dissatisfied with the ruling of the Chairperson may move a motion of dissent as follows: "That the Chairperson's ruling be dissented from."

The motion shall then be put to the meeting by the Vice-Chairperson, without discussion, in the following manner. The question is, "That the Chairperson's ruling be upheld." Those in favour of upholding the Chairperson's ruling, say "Aye." Those against the Chairperson's ruling being upheld, say "No."

The mover only shall speak to the motion, except the Chairperson, who may explain the reasons for the ruling given.

The Vice-Chairperson shall not give a ruling on the question involved in the Chairperson's ruling.

The Vice-Chairperson's ruling shall only be dissented from by a direct appeal to the meeting, the question being put by the Vice-Chairperson without discussion.

- (q) This Rule shall apply only to general meetings of members of the Divisional Branch and shall not apply to Divisional Branch Council or Divisional Branch Committee of Management.

### **65 – INSPECTION OF BOOKS**

The books of the Divisional Branch shall be available for inspection at any reasonable time by any member having an interest in the funds of the Divisional Branch on application being made to the Divisional Branch Secretary

### **66 – deleted**

### **67 – DIVISIONAL BRANCH COUNCILLORS**

In addition to powers elsewhere provided in the Rules, a Divisional Branch Councillor shall have the powers of a shop steward and in respect of Country Councillors powers of a Town Steward.

### 68 – REFERENDA

- (a) On receipt of a petition signed by not less than 1000 financial members of the Divisional Branch, Divisional Branch Council shall take a referendum of the whole of the financial members of the Divisional Branch in respect of any matter determined by Divisional Branch Council.

Such referendum shall take place within 2 months of the receipt of the petition.

The decision reached by majority of the actual votes recorded shall be binding on the Divisional Branch Council and the members of the Divisional Branch and on the Divisional Branch Management Committee.

- (b) Divisional Branch Council may at any time, by its own motion, take a referendum of the whole of the financial members of the Union upon any matter it thinks fit.
- (c) The referendum referred to in this rule shall be conducted as follows:

The Divisional Branch Council shall:

Determine the question to be submitted to the members and the form of the ballot paper.

Fix the times for the despatch and return of ballot papers and give the necessary instructions for printing of same.

Appoint a Divisional Branch Returning Officer and Divisional Branch Scrutineer to conduct the ballot.

In all other respects the referendum shall be held as nearly as practicable in the manner provided for the holding of elections of Divisional Branch Officers.

### 69 – SPECIAL RULES

- (iA) Queensland

- (a) The Queensland Divisional Branch Management Committee shall convene at regular intervals no less often than each two years (but at earlier intervals should it be deemed necessary). A Divisional Branch Delegates Convention and consisting of delegates elected from Sub-Branches and jobs throughout the Divisional Branch and also comprised of members of the Divisional Branch Management Committee and full time officials of the Union.
- (b) The method of financing such Convention and the number of delegates that Sub-Branches and jobs may elect to attend such Convention, shall be determined by the Divisional Branch Management Committee from time to time.
- (c) A member nominating as a delegate to the Divisional Branch Delegate Convention must be financial at the time nominations are called.
- (d) Items for the Agenda for the Divisional Branch Delegate Convention shall be called for at least three (3) months before Convention assemblies, and be in the hands of delegates to the Convention at least seven (7) days before Convention commences.
- (e) The Divisional Branch Delegates Convention may only recommend to the Divisional Branch Management Committee proposals for Rule and Policy changes.

- (iB) (a) The purpose of this rule is to provide for:
- (i) the merger of the QNTDB with the QBLDB to constitute on commencement day, the QNTDB; and
  - (ii) the conduct of the first election for the offices of the QNTDB in the year 2016 (“the 2016 elections”).
- (b) This rule shall apply notwithstanding any other provision of these Divisional Rules.
- (c) The provisions of this rule provide for the merger and shall take effect on, and from, either the 3rd January 2014 or the day after the General Manager of the Fair Work Commission certifies them, whichever is the later (“the commencement day”).
- (d) The QNTDB, and the members attached to it, shall comply with the provisions of this rule severally.
- (e) On, and from, the commencement day, the QNTDB and the QBLDB shall be merged to form the Queensland-Northern Territory Divisional Branch.
- (g) On commencement day the financial members of the QNTDB shall, despite rule 40(2)(ii)(C), be represented in the offices set out in column B by the persons holding the office set out in column A on the day immediately preceding the commencement day in respectively the QNTDB or the QBLDB:

A	B
Divisional Branch Secretary - QBLDB	Divisional Branch President Divisional Branch Council Member and Divisional Branch Executive member QNTDB Divisional Branch
Divisional Branch President - QBLDB	Divisional Branch Senior Vice President Divisional Branch Council Member and Divisional Branch Executive member QNTDB Divisional Branch
Divisional Branch Assistant Secretary - QBLDB	Divisional Branch Council Member and Divisional Branch Executive member QNTDB Divisional Branch
Divisional Branch Vice President - QBLDB	Divisional Branch Vice President and Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Trustees - QBLDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Treasurer - QBLDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Guardian - QBLDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Executive Members - QBLDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch President - QNTDB	Divisional Branch Senior Vice President Divisional Branch Council Member and

	Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Vice-President - QNTDB	Divisional Branch Vice President (Construction Workers Divisional Branch)  Divisional Branch Council Member and  Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Secretary - QNTDB	Divisional Branch Secretary  Divisional Branch Council Member and  Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Assistant Secretary (Plasterers) - QNTDB	Divisional Branch Assistant Secretary (Plasterers)  Divisional Branch Council Member and  Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Assistant Secretary (Painters) - QNTDB	Divisional Branch Assistant Secretary (Painters)  Divisional Branch Council Member and  Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Assistant Secretary (General) - QNTDB	Divisional Branch Assistant Secretary (General)  Divisional Branch Council Member and  Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Executive Member - QNTDB	Divisional Branch Executive Member and  Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Council Member (South East Queensland) - QNTDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Council Member (Regional Queensland) - QNTDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Council Member (Northern Territory) - QNTDB	Divisional Branch Council Member QNTDB Divisional Branch

and such persons as referred to in Column A herein shall, subject to these Divisional Rules, continue to hold the office in the merged Divisional Branch as described in Column B herein, until their successor takes office following the 2016 elections.



- (h) The officers of the Divisional Branch Council of the QNTDB are entitled to exercise votes as follows:
  - (i) each of the officers who were, on the day preceding the commencement day, members of the QNTDB Management Committee, shall be entitled to exercise collectively 73% of the total votes at a meeting of the Divisional Branch Council such votes to be exercised in equal proportions as between those officers in attendance at the meeting;
  - (ii) each of the officers who were, on the day preceding the commencement day, members of the QBLDB Executive, shall be entitled to exercise collectively 27% of the total votes at a meeting of the Divisional Branch Council such votes to be exercised in equal proportions as between those officers in attendance at the meeting;
- (i) The officers of the Divisional Branch Executive of the QNTDB are entitled to exercise votes as follows:
  - (i) each of the officers who were, on the day preceding the commencement day, members of the QNTDB Executive, shall be entitled to exercise collectively 73% of the total votes at a meeting of the Divisional Branch Executive such votes to be exercised in equal proportions as between those officers in attendance at the meeting;
  - (ii) each of the officers who were, on the day preceding the commencement day, members of the QBLDB Executive and who are by operation of these rules, members of the QNTDB Divisional Branch Executive on and from commencement day, shall be entitled to exercise collectively 27% of the total votes at a meeting of the Divisional Branch Executive such votes to be exercised in equal proportions as between those officers in attendance at the meeting.
- (j) A member of the QNTDB, who becomes a member on, or following, the commencement day is liable to pay subscriptions and fees in accordance with these Divisional Rules.
- (k) There shall be an inaugural meeting of the Divisional Branch Council of the QNTDB to be held within two (2) months of the commencement day.
- (l) There shall be an inaugural meeting of the Divisional Branch Executive of the QNTDB to be held within one (1) month of the commencement day.
- (m) Financiality for the purposes of these Divisional Rules is inclusive of the period of financial membership of the QBLDB contiguous with periods of financial membership with the QNTDB.
- (n) Financiality for the purposes of these Divisional Rules is inclusive of the period of financial membership of the QCWDB contiguous with periods of financial membership with the QNTDB.
- (o) At meetings of the Divisional Branch Council and Divisional Branch Executive of the QNTDB, quorum shall be as provided by rules 41(a) and 42(b) respectively provided however that for the purposes of quorum at least one (1) member must be a person who was a member of the QBLDB on the day immediately preceding amalgamation day and at least one (1) member must be a person who was a member of the QNTDB on the day immediately preceding amalgamation day.

(ii) Victoria-Tasmania - Divisional Branch Meetings

- (a) Victoria-Tasmania Divisional Branch meetings shall be held on the first Thursday in each month or as the Divisional Branch Management Committee may from time to time determine. Meeting shall be held at 500 Swanston Street, Carlton, or at such places as may be decided from time to time by the Divisional Branch Meeting or the Divisional Branch Management Committee.
- (b) The Divisional Branch Management Committee shall, when deemed necessary, have power to call a special meeting, for at any time or at any place. The Divisional Branch President and Divisional Branch Secretary shall convene a special general meeting of the Divisional Branch members at the written request of twenty five (25) financial members.
- (c) Not less than twenty five (25) financial members of the Divisional Branch shall constitute a quorum for any meeting of the Divisional Branch otherwise the meeting shall lapse.
- (d) Notice of Divisional Branch meetings or of a special meeting of the Divisional Branch shall be given by advertisement in a daily paper at least two (2) days' prior to the time of meeting.
- (e) Divisional Branch meetings shall not commence earlier than 5 pm nor continue later than 7 pm unless a motion to extend the time be agreed to by a majority of the members present.
- (f) The Divisional Branch meetings shall be conducted in accordance with the standing orders and rules of debate prescribed in these rules.
- (g) The Divisional Branch meetings shall have powers of recommendation to the Divisional Branch Management Committee.

(iii) South Australia - Divisional Branch Meetings

- (a) Divisional Branch meetings shall be held on the last Wednesday of each month or as the Divisional Branch Management Committee may from time to time determine. Meetings shall be held at Trades Hall, 10-16 South Terrace, Adelaide, SA or at such places as may be decided by the Divisional Branch Management Committee.
- (b) The Divisional Branch Management Committee shall, when deemed necessary, have power to call a special meeting, for any time at any place. The Divisional Branch President and Divisional Branch Secretary shall convene a special general meeting of the Divisional Branch members at the written request of 25 financial members.
- (c) Not less than ten financial members of the Divisional Branch, not including members of the Divisional Branch Management Committee, shall constitute a quorum for any meeting of the Divisional Branch, otherwise the meeting shall lapse.
- (d) Notice of any variations to the usual time or venue of Divisional Branch meetings or of any special meeting of the Divisional Branch shall be given in the Divisional Branch journal and/or local newspaper at least two (2) days prior to the time of the meetings.
- (e) Divisional Branch meetings shall not commence earlier than 5.00pm nor continue later than 7.00 pm unless a motion to extend the time be agreed to by a majority of members present.
- (f) The Divisional Branch meetings shall be conducted in accordance with the standing orders and rules of debate prescribed in these rules.

- (g) The Divisional Branch Management Committee shall have regard to decisions of the Divisional Branch meetings of members and in circumstances where any decision of the Divisional Branch Management Committee is contrary to that of a general meeting of members, the matter shall be referred to the Divisional Branch Council for determination and any determination so made shall be binding upon all members of the Divisional Branch.
- (iv) Western Australia - Divisional Branch Meetings
  - (a) Divisional Branch meetings shall be held on the second Wednesday of each month and shall be held at the Union's office, or at such time and place as the Divisional Branch Management Committee may from time to time determine.
  - (b) The Divisional Branch Management Committee shall, where deemed necessary, have power to call a special meeting, for any time or at any place. The Divisional Branch President and Divisional Branch Secretary shall convene a special general meeting of the Divisional Branch members at the written request of 25 financial members.
  - (c) Not less than ten financial members of the Divisional Branch shall constitute a quorum for any meeting of the Divisional Branch, otherwise the meeting shall lapse.
  - (d) Notice of any variations to the usual time or venue of Divisional Branch Meetings or of any special meeting of the Divisional Branch shall be given in the Divisional Branch journal and/or local newspaper at least two (2) days prior to the time of the meeting.
  - (e) Divisional Branch Meetings shall not commence earlier than 5.00pm nor continue later than 7.00pm unless a motion to extend the time can be agreed to by a majority of members present.
  - (f) The Divisional Branch Meetings shall be conducted in accordance with the standing orders and rules of debate prescribed in these rules.
  - (g) The Divisional Branch Meetings shall have powers of recommendation to the Divisional Branch Management Committee.

\*\*\*END OF RULES\*\*\*