

ENFORCEABLE UNDERTAKING

Undertaking to the General Manager of the Fair Work Commission given under section 316C the *Fair Work (Registered Organisations) Act 2009* by the Australian Education Union regarding the Queensland Branch

Date: 27 November, 2025

PARTIES

1. This enforceable undertaking (**EU**) is given by the Australian Education Union (**AEU**) to the General Manager of the Fair Work Commission (**General Manager**) pursuant to s. 316C of the *Fair Work (Registered Organisations) Act 2009 (RO Act)* and Part 6 of the *Regulatory Powers (Standard Provisions) Act 2014 (Regulatory Powers Act)*.

BACKGROUND

The structure of the AEU

2. The AEU is a federally-registered organisation of employees, covering members connected to the education industry. The AEU has a branch in each state and territory – these being the Queensland Branch, Western Australian Branch, New South Wales Teachers Federation (NSWTF) Branch, Tasmanian Branch, South Australian Branch, ACT Branch, Northern Territory Branch and Victorian Branch.
3. In most states, AEU branches have counterpart state-registered associations which operate in the state industrial relations jurisdiction. In practice, the day-to-day functions of most branches are administered by employees of the relevant state-registered association, and its officers are frequently also officers of the Federal Branch.
4. The relevant Queensland state-registered association is the Queensland Teachers' Union (**QTU**).
5. The AEU's rulebook (the **rules**) includes rules governing the operation of each of its federally-registered branches, including those of the Queensland Branch (**Branch rules**).
6. The conduct which gave rise to this EU occurred within the Queensland Branch (the **Branch**) in relation to election-related obligations under its rules and section 189 of the RO Act, specifically the need to lodge prescribed information for elections to be conducted for the Branch Executive and Branch Council.

RELEVANT LEGISLATION AND AEU RULES

Statutory obligation under the RO Act

7. Section 189 of the RO Act relevantly provides that:

- (1) An organisation or branch of an organisation must lodge with the FWC the prescribed information in relation to an election that is to be conducted by the AEC.
- (2) The prescribed information must be lodged before the prescribed day or such later day as the General Manager allows.

Civil penalty: 60 penalty units.

- (3) If:
 - a) The prescribed information is lodged with the FWC by the organisation or branch (whether or not before the prescribed day or the later day allowed by the General Manager); and
 - b) The General Manager is satisfied that an election is required to be held under the rules of the organisation or branch; ...

The General Manager must arrange for the conduct of the election by the AEC.

8. Regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009* defines the 'prescribed day' as being a day that is at least two (2) months before the day nominations open.

AEU rules and terms of office

9. Branch rule 2 provides for a Branch Council which consists of thirty-four (34) members, elected directly by all Branch financial members, and specifies that terms of office for Branch Council members commence on 20 January in the relevant year and expire two (2) years after their commencement.
10. Branch sub rule 6 provides for a Branch Executive – consisting of the Branch President, Branch Deputy President, Branch Secretary, Branch Deputy Secretary ('Branch Officers') and nine (9) Branch Executive Members – elected by and from the Branch Council, and hold office for one (1) year, commencing their terms from 1 March each year, with the relevant election being conducted between 20 January and 1 March each year.
11. Branch rule 2 provides for elected Branch Council members to 'hold over' in office until a successor is elected.

12. 'Holding over' rules are not a substitute for the conduct of elections, which are a fundamental element of democratic control of registered organisations as outlined in section 5 of the RO Act.¹
13. Registered organisations and their branches must comply with their election-related rules. The lodgement of prescribed information, at least two (2) months prior to the opening of nominations, and an election decision being issued by the Commission is the trigger for the Australian Electoral Commission (AEC) to conduct an election. The Branch's election rules required the lodgement of prescribed information every two (2) years for Branch Council elections and each year for Branch Executive elections.

Contravention of section 189 of the RO Act

14. Commission records confirm that, prior to late 2025, the most recent scheduled elections for Branch Council and Branch Executive were conducted in October 2021 (E2021/127) and February 2023 (E2022/184) respectively. However, the two-year term for Branch Council members was reached on 19 January 2024 and the one-year term for Branch Executive members was reached on 29 February 2024. Prescribed information to fill the offices of Branch Council should have been lodged at the latest by September 2023 (to allow for the election process in the Branch's rules), and for the Branch Executive by November 2023.
15. The Branch did not lodge the prescribed information for either election until 26 May 2025 (E2025/98), more than eighteen (18) months late. This delay resulted in one missed Branch Council election and two missed elections for Branch Executive offices. The Commission issued an election decision on 13 June 2025 in decision [2025] FWCD 77 enabling the conduct of an election for all relevant offices in late 2025.
16. Numerous attempts were made by Commission staff to contact the Branch about the outstanding elections. Commission records establish that staff contacted the Branch on 4 July, 28 July and 3 October 2023, and again on 11 and 30 October 2024, and finally on 14 May 2025, each time seeking prescribed information for an election that was due (or overdue) in accordance with Branch rules. Those inquiries and communications did not result in the Branch lodging prescribed information until 26 May 2025.
17. When lodging the outstanding prescribed information on 26 May 2025, the Branch requested an extension of time under section 189(2) of the RO Act for lodgement citing staffing issues including absences and changes in staff, as well as apparent miscommunication within the Branch.

¹ Sub section 5(3) sets out the standards in the RO Act, including providing for the democratic functioning and control of organisations – ss. 5(3)(d).

18. The request for an extension of time was declined for reasons which have been set out in the election decision.
19. Non-compliance with election requirements is serious. Holding elections is a fundamental feature of member-run organisations such as the AEU and is embedded in the key standards set out in the RO Act² which include encouraging members to participate in the affairs of organisations, encouraging high standards of accountability of organisations to their members, and providing for the democratic functioning and control of organisations.
20. Those election requirements are also essential to the compact, or agreement, between the organisation's members that governs how the organisation operates and how its members interact as set out in the organisation's rules.
21. Section 189 of the RO Act is a civil penalty provision. A failure to lodge prescribed information in relation to an election that is required to be conducted within the time prescribed, or such further time as may be allowed, exposed the AEU to the imposition of pecuniary penalties.
22. In respect of the prescribed information for each of the two elections required to be lodged in late 2023, maximum penalties of up to \$93,900 per contravention could apply. In respect of the further prescribed information for a further election for the Branch Executive that was required to be lodged in late 2024, a further maximum penalty of up to \$99,000 could apply.

ADMISSIONS BY THE BRANCH

23. On 27 June 2025, the AEU, and specifically the Branch, made submissions to the Commission in response to election decision E2025/98 in which it addressed the Branch's failures to lodge the prescribed information.
24. The Branch Secretary submitted that she was, prior to meeting with Commission staff on 14 May 2025, unaware of the Commission's requests for lodgement of the relevant prescribed information. The admission raised concerns due to the Commission's normal and reasonable expectation that a Branch and its officers would be aware of the Branch's election-related rules and when its elections fell due.
25. It was noted that the terms of office for the state-registered union, the QTU, are different from those of the federally-registered Branch, and that most of the day-to-day activities occur in the state-registered entity.

² See section 5(3) of the RO Act

26. The Branch acknowledges that the Branch Secretary is the officer ultimately responsible for the lodgement of prescribed information to arrange for elections, and doing so in accordance with the timeframes set out in the RO Act and the AEU and Branch rules.

REMEDIAL ACTION TAKEN AND PROPOSED TO BE TAKEN BY THE AEU AND THE BRANCH

27. The Branch has committed to taking the following steps to prevent future contraventions of section 189 of the RO Act:
- i. The Branch has established a system whereby all correspondence from the Commission and the AEC will be directed to the Branch's general email address qtu@qtu.asn.au and this correspondence will be forwarded directly to the Branch Secretary for allocation to a responsible staff member or office holder.
 - ii. The Branch has informed Senior Branch Officers and the Branch Executive about the significant delay in lodging the prescribed information for an election, as well as communicating election decision E2025/98 to relevant staff and Branch officers.
 - iii. All elected members of the Branch Council will undertake approved financial governance training. The Branch notes that while current office holders have completed training, it is committed to refreshing their knowledge.
 - iv. Branch staff who work on election-related matters have now attended the Australian Council of Trade Unions governance group, and the Branch commits to the same occurring for any other staff members involved in election matters.
 - v. The staff member of the Branch who currently works on election-related matters is completing a Certificate IV in Governance through the Governance Institute. The Branch acknowledges that the ultimate responsibility for such obligations falls on Branch officers, and particularly the Branch Secretary, under the RO Act, Branch rule 7.3 and Federal Rule 43(1)(h).
 - vi. Governance procedures for the Branch and its counterpart State registered association, the QTU, will be revised to incorporate the timing of the Branch elections to ensure that the prescribed information is lodged in a timely manner in accordance with the Branch rules and the RO Act.
 - vii. The Branch and the AEU will take the necessary steps to amend the Branch rules in relation to the terms of office (so that they are in place for the 2027 Branch election), to effect a change of term of office for the Branch President, Vice-President, Branch Secretary, Deputy Branch Secretary and Branch Executive Members from one (1) year to three (3) years; and for the Branch Council

members from two (2) to three (3) years. The purpose of the amendments to the Branch rules is to better synchronise the election of Branch offices with the counterpart State association, the QTU.

ACKNOWLEDGEMENT BY THE GENERAL MANAGER OF THE COMMISSION

- 28. The General Manager is committed to upholding high standards of accountability of organisations and their office holders to their members, promoting compliance and ensuring the democratic functioning and control of organisations and branches. The Commission is dedicated to embedding within organisations a culture of good governance and voluntary compliance with the law.
- 29. The General Manager acknowledges the AEU and the Branch’s co-operation, admissions and its commitment to improve and strengthen its procedures and its compliance with the RO Act.
- 30. The General Manager also acknowledges that the steps set out above, and the undertakings outlined below, indicate the AEU and the Branch’s commitment to educate its officers and staff in governance, and to implement systems and processes directed towards achieving ongoing compliance with the RO Act.

ENFORCEABLE UNDERTAKINGS

- 31. The AEU undertakes, for the purposes of s. 316C of the RO Act and Part 6 of the Regulatory Powers Act, that:

Undertaking	Timeframe
1. The AEU and the Queensland Branch to publish a copy of this EU on their respective websites (including the QTU website in the case of the Branch) and provide the relevant webpage links to the Commission.	Within seven (7) days of the date of commencement of the EU.
2. The Queensland Branch Secretary will contact the Commission to make arrangements for all Branch Council members elected in E2025/98 to undertake training provided by staff of the Commission through its ‘Governance to You’ program concerning the Branch’s obligations and the duties of officers with respect to record keeping and elections under the RO Act. (This training is separate and distinct from the section 293K approved training required to be completed by all officers with financial management responsibilities).	To contact the Commission with prospective dates within 3 weeks (21 days) of the declaration of results for Branch Council election E2025/98 (Branch Council members).
3. All Branch Council members declared elected in the first-stage of election E2025/98 will complete the abovementioned ‘Governance to You’ program.	By 28 February 2026 .

<p>4. The Branch Secretary will provide the Commission with a list that contains:</p> <ul style="list-style-type: none"> ● the names of all persons declared elected to Branch Council in E2025/98; ● the date that each individual took office; ● the office they have been elected to hold; ● for each officer who has completed financial management training under section 293K, the date on which they completed the training and the name of the institution that provided the training. (If they have undertaken retraining, each date is to be included); and ● for each officer who has not completed the section 293K approved training within six (6) months of taking office, written reason for this, e.g. the officer was granted an exemption (and the date this exemption was granted) or have not yet completed training because they are newly-elected. 	<p>Within 4 weeks (28 days) of the declarations of results in the first-stage direct-voting-system election E2025/98 (Branch Council members).</p>
<p>5. The Branch must lodge draft proposed rule alterations with the Commission at regorgs@fwc.gov.au to seek advice and assistance from the Commission’s Rules Team on the proposed rule alterations.</p>	<p>Within 8 weeks (56 days) from the date of commencement of the EU.</p>
<p>6. After receiving advice from the Commission’s Rules Team, the Branch will undertake the rule altering procedures set out in the AEU rules before lodging the rule alterations under section 159 of the RO Act with the Commission.</p>	<p>Commence the rule alteration process as prescribed by the AEU rules within 3 weeks (21 days) from the date of receiving final advice on the proposed rules from the Commission’s Rules Team.</p>
<p>7. The Branch Secretary will provide the Commission with a copy of the updated governance procedures for the Branch and the QTU as they relate to the timing of lodging prescribed information for Branch elections.</p>	<p>Within 8 weeks (56 days) from the date of commencement of the EU.</p>
<p>8. After the proposed rule alterations have been certified by the Commission, the Branch Secretary will provide the Commission with an updated copy of the governance procedures for the Branch and the</p>	<p>Within 2 weeks (14 days) from the date the proposed rule alterations are certified by the Commission.</p>

QTU reflecting any changes to the timing of Branch elections and associated obligations.	
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No Inconsistent Statements

32. The AEU must not make, and must use its best endeavours to ensure that its officers, employees or agents do not make, any statement or otherwise imply, either orally or in writing, anything that is inconsistent with admissions or acknowledgements contained in this EU.

COMMENCEMENT

33. This EU comes into effect when:
- i. it is executed by the AEU; and
 - ii. the General Manager accepts the EU (the Commencement Date).

Acknowledgments

34. The AEU acknowledges that:
- i. The General Manager will make this EU publicly available, including by publishing it on the Commission’s website.
 - ii. If the AEU contravenes any of the terms of this EU, the General Manager may apply to any of the Courts set out in s. 316C(4) of the RO Act, for orders under s. 115 of the Regulatory Powers Act.

Executed as an Enforceable Undertaking

35. Executed by the AEU pursuant to s. 316C of the RO Act and Part 6 of the Regulatory Powers Act by, and on its behalf by Nicole Calnan, Federal Secretary, Australian Education Union.



Signature
Nicole Calnan
Federal Secretary
Australian Education Union

Accepted by the General Manager, Fair Work Commission pursuant to s. 316C of the RO Act and Part 6 of the Regulatory Powers Act on:

28 November 2025

Date

A handwritten signature in blue ink, appearing to read 'M Furlong'.

Murray Furlong
General Manager
Fair Work Commission