



22 November 2022

Ian Smith  
Branch Secretary  
Transport Workers' Union of Australia-South Australian/Northern Territory Branch  
Sent via email: [info@twusant.com.au](mailto:info@twusant.com.au)



**IMMEDIATE ACTION REQUIRED:**

**You must take steps after your recent election E2022/178**

Dear Ian Smith,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Transport Workers' Union of Australia-South Australian/Northern Territory Branch.

This letter explains the next steps you must take and what information you need to lodge with the Registered Organisations Commission (**ROC**).

### **What you must do right now**

- Let your members know about the election report issued by the AEC
- Arrange financial training for officers newly elected to an office with financial management duties. (This includes all members of the committee of management).
- Complete the notification of change and email it to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au)

This letter explains these steps and the tools available to help you.

### **STEP 1: Notify members**

You must put a notice on your website once you receive your post-election report. It must tell your members they can request a copy of the post-election report from you or the AEC (r. 141). The notice must be on your website for at least 3 months.



**Can I put more information on our website?**

Yes! Being transparent is part of good governance. You can publish the whole report or the declaration of results, as well as your notice and leave them up longer than 3 months. You can always do more than the regulatory minimum.

The ROC will also publish your declaration of results on our [website](#).

### **STEP 2: Financial training**

You may have to arrange financial training for people elected to new roles.

All officers with financial management duties must complete financial training (s 293K). For information on when officers must redo training and hints on when to book training for officers taking up multiple offices [please see our fact sheet](#).

There are face to face and online [financial training packages on the ROC website](#).

You must act on this now, as affected officers **MUST** complete approved financial training OR been granted an [exemption by the ROC within 6 months](#) of beginning to hold office.



### Good governance tip:

Organisations should instruct officer holders about their other obligations. This is especially important for committee of management members.

Our podcast covers the [benefits of officer induction](#). Officers have responsibilities under the rules, the RO Act, and disclosure requirements around conflicts of interest, remuneration and material personal interests. Officers will benefit from our [officer induction kit](#) and our [podcast, such as episode 17 - conflicts of interest](#).

## STEP 3: Notifications of change

A notification of change must be lodged with the ROC within **35 days** of the change occurring.



We have a [template](#) to help you with this, which you can send to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au). An officer must sign the completed notification template.

You must lodge a notification of change if:

- any of your officers have not been re-elected;
- officers have changed offices; or
- you have new officers.

Only notify us of changes that have **already occurred**. If people take up office in the future, you must wait until the change happens before lodging the notification within 35 days of the change.

**Note:** One election may result in many notifications of change.



### Penalties apply

Failing to lodge your notifications of change on time can expose your organisation and its officers to significant penalties.

#### ROC v CEPU

The organisation failed to make a series of notifications of change on time.

The Full Court said 'The record-keeping obligations imposed under the Registered Organisations Act are treated by the legislature as important and serious, and contravention of those obligations are correspondingly serious.'

The organisation was ordered to pay a penalty. More information is available in our [case summary](#).

## Questions?



### **Why do I need to tell you the results of the election when you've already received them?**

The RO Act requires that **you** tell us this information about your officers – it is a legal obligation. The notification of change also contains information that is not in the declaration of results.

### **What if the officer has already done training?**

Check out our [fact sheet](#) for when officers need to redo training, when they can get an exemption and when further training isn't required.

If you have any queries we can be contacted on 1300 341 665 or by email at [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

Yours sincerely

## Registered Organisations Commission



The ROC has a [Compliance Policy](#) which explains how we respond to issues of non-compliance. The policy is available on our website if you would like further information on the steps the compliance team may take in response to non-lodgement of a financial report.

18 November 2022

# Post-election report

Transport Workers' Union of Australia  
Casual Vacancy election  
E2022/178

# Contents

Election(s) Covered in this Report .....	3
Rules.....	3
Roll of Voters .....	3
Other Matters .....	4
Signed .....	4
Attachments.....	5
A. Declaration of results for Uncontested Offices .....	5

# Election(s) Covered in this Report

---

Organisation: Transport Workers' Union of Australia  
Election: Casual Vacancy  
Election Decision No/s: E2022/178

## Rules

---

Rules used for the election: 179V: Incorporates alterations of 6 September 2022 [R2022/94]  
(replaces rulebook dated 23 August 2022 [R2022/56])

Rules difficult to apply/interpret: No

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website: [www.aec.gov.au/ieb/](http://www.aec.gov.au/ieb/)

## Roll of Voters

---

Based on an analysis of the register of members the Returning Officer has formed the opinion that the:

- No concerns

Total number of voters on the Roll: 12

## Other Matters

---

Returning Officer actions required (Section 193): Yes

Details:

- Rules requiring an in-person ballot were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for all stakeholders to attend. Instead the ballot was conducted via post.
- Rules specifying the method of lodgement of nominations were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for potential candidates to nominate. Instead nominations were received electronically, via email/the AEC's portal.

## Signed

---

Darren Wade  
Returning Officer  
Australian Electoral Commission  
E: IEEvents@aec.gov.au  
P: 03 9285 7111  
18 November 2022

# Attachments

---

## A. Declaration of results for Uncontested Offices



**Transport Workers' Union of Australia**  
**DECLARATION OF RESULTS - E2022/178**  
**Uncontested Offices**

---

**Casual Vacancy Election**

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

**South Australia/Northern Territory Branch**

**Branch Assistant Secretary (1)**

Candidates

MCINTOSH Sam

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Darren Wade  
Returning Officer  
Telephone: 03 9285 7111  
Email: IEBevents@aec.gov.au  
07/11/2022

---





## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.189—Arrangement for conduct of an election

**Transport Workers' Union of Australia**  
(E2022/178)

MR STEENSON

SYDNEY, 20 SEPTEMBER 2022

*Arrangement for conduct of election.*

[1] On 9 September 2022 the South Australian/Northern Territory Branch (**Branch**) of the Transport Workers' Union of Australia (**TWU**) lodged with the Registered Organisations Commission prescribed information for an election to fill the following office:

Branch Assistant Secretary (1)

[2] On 6 September 2022, the Fair Work Commission (**FWC**) certified alterations to the TWU rules.<sup>1</sup> Relevantly for this election matter, there is a transitional rule (rule 93) concerning the Branch and specifically the office of Branch Assistant Secretary. Rule 93 provides as follows:

**93. Transitional Rule - Branch Assistant Secretary (SA/NT)**

- (1) This rule applies and operates notwithstanding anything else in these Rules.
- (2) If before nominations close for the next quadrennial elections (that is, before noon on the first Tuesday of October 2022), the South Australian/Northern Territory Branch Committee of Management resolve in accordance with Rule 40 to have a position of Branch Assistant Secretary for their Branch, then that position must be filled as follows:
  - (a) The Branch Committee of Management shall, at its first meeting after the meeting at which such a resolution is carried, elect by and from the members thereof a Branch Assistant Secretary in accordance with the procedure in (b) - (e) below.
  - (b) The Branch Returning Officer shall call for nominations at the meeting.
  - (c) Any member may nominate any other member for the office provided that the nominee must not already hold the position of Branch President, Vice President or Secretary.
  - (d) The nominee shall signify either in writing or verbally willingness to stand for the office. If the Returning Officer finds a nomination to be defective the Returning Officer shall before rejecting it notify the person concerned of the defect and where it is practicable to do so provide the opportunity of the nominee to remedy the defect.

---

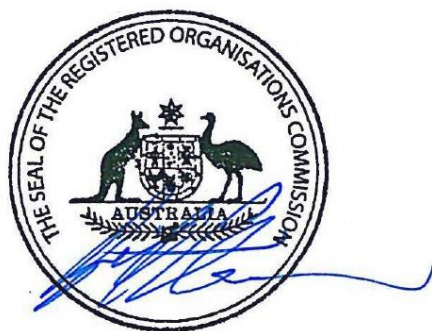
<sup>1</sup> [2022] FWCG 55 in matter R2022/94

- (e) In the event of an election being necessary the Returning Officer shall conduct such election by secret ballot.
- (3) The person declared elected in accordance with this process takes office immediately and holds office until 10 January 2023, at which time a person elected to the position under rule 60 shall take office.
- (4) This rule is a transitional rule only and ceases to have effect on and from 10 January 2023.

[3] The provisions of rule 93(2) are such that the election for Branch Assistant Secretary to which this decision relates is intended to be conducted at a Committee of Management meeting,<sup>2</sup> and that the person so elected will hold office until the end of the current term of other TWU officers, i.e. 10 January 2023.

[4] The requested election is therefore separate and distinct from the upcoming scheduled election of office-holders of the TWU and the Branch from a new term (**E2022/120**).

[5] I am satisfied that an election for the abovenamed office is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

Printed by authority of the Commonwealth Government Printer

PR352337

---

<sup>2</sup> The Branch has apparently scheduled that meeting for 18 October 2022.

**PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 Fair Work (Registered Organisations) Act 2009 and Regulation 138 Fair Work (Registered Organisations) Regulations 2009**

I, Ian Smith, being the Branch Secretary of the Transport Workers' Union of Australia, South Australian/Northern Territory Branch, make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Transport Workers' Union of Australia, South Australian/Northern Territory Branch.
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. On 6 September 2022 the Fair Work Commission in R2022/94 approved a rule change which allowed the South Australian/Northern Territory Branch Committee of Management to determine that there should be a position of Branch Assistant Secretary prior to 4 October 2022. On 8 September 2022 the Branch Committee of Management met and determined that there should be a Branch Assistant Secretary and that an election for this position should occur at the next Branch Committee of Management meeting. The relevant resolution is attached.
5. No rule alterations are pending that will impact the election.

Signed:



Dated: 9 September 2022

**NOTE:** This statement should be lodged with the Registered Organisations Commission at least 2 months prior to nominations opening. It can be submitted to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

## Annexure A

- Elections that are required [insert as many pages as required]

Branch	Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
South Australian/Northern Territory	Branch Assistant Secretary	1	Collegiate electoral system	New office created	<i>Branch Committee of Management members at Rule 93(2)</i>

- Important dates:

	Direct Voting System	Collegiate Electoral System
<b>Nominations OPEN</b>	N/A	Next Branch Committee of Management Meeting as determined by returning officer, preference as soon as possible
<b>Nominations CLOSE</b>	N/A	Next Branch Committee of Management Meeting as determined by returning officer, preference as soon as possible
<b>Roll of Voters cut off date</b>	N/A	Members of the Branch Committee of Management at the date of the meeting as determined by the returning officer per Rule 93(2)

**NOTES:** For insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as 'To be determined by the returning officer'. This also applies where rules are silent as to the nominated dates.

If the nomination dates are 'To be Determined by the Returning Officer', but your organisation has a *preference*, please state 'To be Determined by Returning Officer' and clearly indicate that your nominated date is a preference.

If the P.I. includes a position that is not an office, please refer to our template [Prescribed information for the election of officer and non-officer positions](#)

