

[2023] ROCD 19



Australian Government
Registered Organisations Commission

DECISION

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

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (E2023/6)

MR STEENSON

SYDNEY, 27 FEBRUARY 2023

Arrangement for conduct of election.

[1] On 7 February 2023 the Communications Division (**the Division**) of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices for a new term of office:

Divisional:

Divisional President	(1)
Divisional Secretary	(1)
Divisional Assistant Secretary (Postal)	(1)
Divisional Assistant Secretary (Telecommunications)	(1)
Divisional Vice President	(1)
Divisional Vice President (Affirmative Action)	(1)
Divisional Conference Member	(19)
<i>(numbers in accordance with Divisional rule 5(d))</i>	
Divisional Executive Member	(14)
<i>(numbers in accordance with Divisional rule 11(a))</i>	

CWU Central Branch:

Branch President	(1)
Branch Vice President	(1)
Branch Vice President - Affirmative Action	(1)
Branch Secretary	(1)
Branch Assistant Secretary (NSW-ACT)	(1)
Branch Assistant Secretary (QLD)	(1)
Branch Assistant Secretary (SA-NT)	(1)
Branch Organiser (NSW-ACT)	(4)
Branch Organiser (QLD)	(1)
Branch Committee of Management Member	(15)

Victorian Postal and Telecommunications Branch:

Branch President	(1)
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Branch Vice President	(2)
Branch Secretary	(1)
Branch Organiser	(3)
Branch Committee of Management Member	(10)

Telecommunications and Services Branch:

Branch President	(1)
Branch Secretary	(1)
Branch Assistant Secretary	(1)
Branch Vice President	(2)
Branch Committee of Management Member	(19)

(numbers in accordance with Divisional rule 76A(h))

Western Australian Communications Division Branch:

Branch President	(1)
Branch Vice President	(2)
Branch Vice President - Affirmative Action	(1)
Branch Secretary	(1)
Branch Assistant Secretary	(1)
Branch Committee of Management Member	(8)

[2] Rule 66 of the Division's rules deals with nominations for office. In particular, rule 66(g) provides that

All nominations for office, including full-time offices, or full-time position of Organiser, shall be called for by the Branch Returning Officer, on the first day of April in the year of election or should that day be a Saturday, Sunday or holiday, on the first day thereafter which is not a Saturday, Sunday or holiday.

[3] For 2023, both the first and second days of April fall on a weekend, so nominations are due to open on 3 April. Regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009* requires that prescribed information must be lodged two months before the date on which nominations are due to open. The prescribed information should therefore have been lodged by 3 February 2023. Consequently the Division's lodgement on 7 February 2023 was after the prescribed date.

[4] In its correspondence dated 7 February 2023, the Divisional Secretary stated that the delay was due to the considerable amount of work involved in 'recent structural changes to the Division' compounded by key people being on leave during the holiday period. The reference to structural changes refers to the recent merger of several of the Division's branches.

[5] The normal and reasonable expectation is that registered organisations, their branches and divisions, take steps to ensure they comply with the time-frame requirements set out not only in the *Fair Work (Registered Organisations) Act 2009 (the Act)* but also in instruments or references pertaining to their own governance formulated by the organisations themselves, such as those set out in their own rules.

[6] I acknowledge that even though the merger of branches took effect in October 2022, it would have implications for their administration in the months immediately after. However, the reference to key personnel being on leave during the holiday period (i.e. December and January) suggests that the Division could be vulnerable to late lodgements in future given that, under the rules as they stand, the prescribed information will always need to be lodged by the very

beginning of February at the latest. The Division should therefore consider what systems it needs to put in place to address this vulnerability.

[7] On this occasion because of the specific circumstances surrounding the merger of branches, I allow, under section 189(2) of the Act, a later day for lodgement. I remind the Division that the failure to lodge prescribed information before the prescribed day would leave the organisation open to civil penalty liability.

[8] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the Act, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

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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, Greg Rayner, being the Divisional Secretary of the Communications Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Communications Division.
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. No rule alterations are pending that will impact the election.
5. This statement was due to be lodged with the Registered Organisations Commission on last Friday 3 February 2023 as nominations open on 3 April 2023. This statement is not lodged at least 2 months before nominations open for the election(s) in Annexure A. The reasons it is being lodged after the prescribed time are as follows.
 - (a) On 24 October 2023 in R2022/72 the Fair Work Commission certified rules alterations to effect a merger of branches within the Communications Division. This merger decreased the number of branches in the Division from seven branches to four branches.
 - (b) As a consequence of these structural changes within the organisation, there has been a considerable amount of work involved in rationalising finances, merging membership records and other operational changes. This led to a delay in lodging the prescribed information for the 2023 quadrennial election.
 - (c) This delay has been compounded by key people being on leave over the holiday period.
 - (d) I apologise for not lodging an extension of time request for this election and I respectfully request an extension of time to lodge the application.

6. *The number of Divisional Conference delegates to be elected to the Divisional Conference representatives is calculated on a formula(s) defined in the rules:*

(a) The rule number which specifies the formula is Divisional rule 5(d) of the CEPU Communications Divisional rules (“the Divisional rules”).

(b) The formula is:

5 – DIVISIONAL CONFERENCE

(d) *Representation at the Divisional Conference shall be on the basis of one (1) delegate for each two thousand (2,000) members or part thereof for each Industry Section within each Branch. For the purposes of this Rule the number of members for an Industry Section shall be the actual number of financial members at the end of the financial year preceding the year of elections.*

(c) The information for calculating the formula(s) is:

(d) *... one (1) delegate for each two thousand (2,000) members or part thereof for each Industry Section within each Branch. For the purposes of this Rule the number of members for an Industry Section shall be the actual number of financial members at the end of the financial year preceding the year of elections.*

a. The relevant date for this information is the end of the financial year preceding the year of the elections.

Signed:



Greg Rayner

Dated: 7 February 2023

Annexure A

- Elections that are required

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
Division	Divisional President	1	Direct Voting System	Scheduled	Financial members of the Division – Divisional rule 21(c)(iv)
Division	Divisional Secretary/National Councillor	1	Direct Voting System	Scheduled	Financial members of the Division – Divisional rule 21(c)(iv), National rule 7.10.1
Division	Divisional Assistant Secretary (Postal)	1	Direct Voting System	Scheduled	Financial members of the Division – Divisional rule 21(c)(iv)
Division	Divisional Assistant Secretary (Telecommunications)	1	Direct Voting System	Scheduled	Financial members of the Division – Divisional rule 21(iv)
Division	Divisional Vice President	1	Direct Voting System	Scheduled	Financial members of the Division – Divisional rule 21(c)(iv)
Division	Divisional Vice President Affirmative Action	1	Direct Voting System	Scheduled	Financial female members of the Division – Divisional rule 21(c)(iv)
Division	Divisional Conference Member	19 Central Br - 10 (5 - NSW - 4 x Postal IS; 1 x Lines & General IS) (3 – QLD - 1 x Telecomm & Information Tech IS; 2 x Postal IS) (2 – SA-NT; 1 x Postal IS; 1 x T&IT IS) Telecom & Services Br - 4 (2 - NSW; 2 - VIC)	Direct Voting System	Scheduled	Financial members of each Industry Section (IS) in: <ul style="list-style-type: none"> • the VIC P&T Branch and the WA Branch; • the T&S Branch in NSW-ACT and VIC; and <ul style="list-style-type: none"> • the financial members from each geographically specific electorate in NSW-ACT, QLD and SA-NT from

		1 each to Technical IS; 1 each to Operator IS) VIC P&T Br – 3 (1 x Lines & Gen IS; 2 x Postal IS) WA Br – 2 (1 x Postal IS; 1 x T&IT IS)			each industry section of the Central Branch – Divisional rules 21(d), r5A
Division	Divisional Executive Member/National Councillor	14 1 x each Industry Section: <ul style="list-style-type: none"> in the VIC P&T (2) and WA (2) Branches; in each geographically specific electorate in the Central Branch (6); and in the T&S Branch in both VIC and NSW (4) 	Direct Voting System	Scheduled	Financial members of each Industry Section in: <ul style="list-style-type: none"> the VIC P&T Branch and the WA Branch; the T&S Branch in NSW-ACT and VIC; and <ul style="list-style-type: none"> the financial members from each geographically specific electorate in NSW-ACT, QLD and SA-NT from each industry section of the Central Branch – Divisional rules 21(d), r11, r11A, National rule 7.10.5
Central Branch	Branch President	1	Direct Voting System	Scheduled	Financial members of the Branch – Divisional rule 75A(c) (refer rule 91-Transitional rule)
Central Branch	Branch Vice President	1	Direct Voting System	Scheduled	Financial members of the Branch – Divisional rule 75A(c) (refer rule 91-Transitional rule)
Central Branch	Branch Vice President – Affirmative Action	1	Direct Voting System	Scheduled	Financial female members of the Branch – Divisional rule 75A(b) c. (refer rule 91-Transitional rule)
Central Branch	Branch Secretary	1	Direct Voting System	Scheduled	Financial members of the Branch – Divisional rule 75A(c) (refer rule 91-Transitional rule)
Central Branch	Branch Assistant Secretary (NSW-ACT)	1	Direct Voting System	Scheduled	Financial members resident in the geographically specific electorate of NSW-ACT - Divisional rule 75A(h) – refer Transitional rule 91

Central Branch	Branch Assistant Secretary (QLD)	1	Direct Voting System	Scheduled	Financial members resident in the geographically specific electorate of QLD - Divisional rule 75A(h) – refer Transitional rule 91
Central Branch	Branch Assistant Secretary (SA-NT)	1	Direct Voting System	Scheduled	Financial members resident in the geographically specific electorate of SA-NT - Divisional rule 75A(h) – refer Transitional rule 91
Central Branch	Branch Organiser (NSW-ACT)	4	Direct Voting System	Scheduled	Financial members resident in the geographically specific electorate of NSW-ACT - Divisional rule 75A(h)(i) – refer Transitional rule 91
Central Branch	Branch Organiser (QLD)	1	Direct Voting System	Scheduled	Financial members resident in the geographically specific electorate of QLD - Divisional rule 75A(h)(ii) – refer Transitional rule 91
Central Branch	Branch Committee of Management Member	15 (10 x Postal Industry Section 5 - NSW; 3 - QLD, 2 - SA-NT) 3 x Lines & General Industry Section (NSW) 2 x Telecommunications and Information Technology Industry Section 1 x QLD; 1 x SA-NT)	Direct Voting System	Scheduled	Financial members from each geographically specific electorate in NSW-ACT, QLD and SA-NT from each industry section of the Branch – Divisional rules 46C, 75A (refer rule 91- Transitional rule)
Victorian Postal & Telecommunications Branch	Branch President	1	Direct Voting System	Scheduled	Financial members of the Branch – Divisional rules 46A, 76(c) (refer rule 91- Transitional rule)

Victorian Postal & Telecommunications Branch	Branch Vice President	2	Direct Voting System	Scheduled	Financial members of the Branch – Divisional rule 46A, 76(c) (refer rule 91-Transitional rule)
Victorian Postal & Telecommunications Branch	Branch Secretary	1	Direct Voting System	Scheduled	Financial members of the Branch – Divisional rule 46A, 76(c) (refer rule 91-Transitional rule)
Victorian Postal & Telecommunications Branch	Branch Organiser	3	Direct Voting System	Scheduled	Financial members of the Branch – Divisional rule 46A, 76(c) (refer rule 91-Transitional rule)
Victorian Postal & Telecommunications Branch	Branch Committee of Management Member	10 (8 - Postal Industry Section 2 - Lines & General Industry Section)	Direct Voting System	Scheduled	Financial members from each Industry Section in the Branch - Divisional rules 46A, 76(d) – refer rule 91 – Transitional rule
Telecommunications & Services Branch (New South Wales & Victoria)	Branch President	1	Direct Voting System	Scheduled	Financial membership of the Branch - Divisional rules 46B, 76A(c) – refer Rule 91 – Transitional rule – Part C
Telecommunications & Services Branch (New South Wales & Victoria)	Branch Secretary	1	Direct Voting System	Scheduled	Financial membership of the Branch - Divisional rules 46B, 76A – refer Rule 91 – Transitional rule – Part C
Telecommunications & Services Branch (New South Wales & Victoria)	Branch Assistant Secretary	1	Direct Voting System	Scheduled	Financial membership of the Branch - Divisional rules 46B, 76A(f) – refer Rule 91 – Transitional rule – Part C
Telecommunications & Services Branch (New South Wales & Victoria)	Branch Vice President	2	Direct Voting System	Scheduled	Financial membership of the Branch from each Industry Section - Divisional rules 46B, 76A(f) – refer Rule 91 – Transitional rule - Part C
Telecommunications & Services Branch	Branch Committee of Management Member	19 (18 x Technical 1 x Operator)	Direct Voting System	Scheduled	Financial membership of the Branch from each Industry Section

(New South Wales & Victoria)					- Divisional rules 46B, 67, 76A(h) – refer Rule 91 – Transitional rule – - Part C
Western Australian Branch	Branch President	1	Direct Voting System	Scheduled	Financial membership of the Branch - Divisional rules 46, 75(c) - refer Rule 91 – Transitional rule – part B
Western Australian Branch	Branch Vice President	2	Direct Voting System	Scheduled	Financial membership of the Branch from each Industry Section - Divisional rules 46, 75(e) - refer Rule 91 – Transitional rule – part B
Western Australian Branch	Branch Vice President – Affirmative Action	1	Direct Voting System	Scheduled	Financial female membership of the Branch - Divisional rules 46, 75(d) - refer Rule 91 – Transitional rule – part B
Western Australian Branch	Branch Secretary	1	Direct Voting System	Scheduled	Financial membership of the Branch - Divisional rules 46, 75(c) - refer Rule 91 – Transitional rule – part B
Western Australian Branch	Branch Assistant Secretary	1	Direct Voting System	Scheduled	Financial membership of the Branch - Divisional rules 46, 75(c) - refer Rule 91 – Transitional rule – part B
Western Australian Branch	Branch Committee of Management Member	8 (4 – Postal Services Industry Section; 4 - Telecommunications & Information Technology Industry Section)	Direct Voting System	Scheduled	Financial membership of the Branch from each Industry Section - Divisional rules 46, 75(e) - refer Rule 91 – Transitional rule – part B

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	Monday 3 April 2023 – Divisional rule 66(g)	N/A
Nominations CLOSE	Monday 17 April 2023 – Divisional rule 66(g) (12 noon 14 days after opening of nominations)	N/A
Roll of Voters cut off date	Monday 27 March 2023 – Divisional rule 67(b)(i) (7 days prior to opening of nominations)	N/A