



30 January 2024

Lisa Fitzpatrick  
Branch Secretary  
Australian Nursing and Midwifery Federation - Victorian Branch  
Sent via email: [records@anmfvic.asn.au](mailto:records@anmfvic.asn.au)

cc: Annie Butler, [fedsec@anmf.org.au](mailto:fedsec@anmf.org.au)

Dear Lisa Fitzpatrick



**IMMEDIATE ACTION REQUIRED:**

**You must take steps after your recent election E2023/51**

An election has recently been completed by the Australian Electoral Commission (AEC) for the Australian Nursing and Midwifery Federation - Victorian Branch and a post-election report has been issued by the AEC.

This letter explains the next steps you must take, including what information you need to give to members and what information you need to lodge with the Fair Work Commission (the Commission).

**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 the Commission at [regorgs@fwc.gov.au](mailto:regorgs@fwc.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 (regulation 141). The notice must be on your website for at least three months.



Can we 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 three months. You can always do more than the regulatory minimum.

The Commission 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 approved financial training (section 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 Commission website](#).

You must act on this now, as affected officers **MUST** complete approved financial training OR receive an [exemption by the Commission](#) **within six 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 *Fair Work (Registered Organisations) Act 2009* (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 Commission within **35 days** of the change occurring.

We have a [template](#) to help you with this, which you can send to [regorgs@fwc.gov.au](mailto:regorgs@fwc.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.

**Real-life example of penalties in Court** An 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](#).

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

Yours sincerely

**Fair Work Commission**



The Commission has an interim [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.

22 November 2023

# Post-Election Report

Australian Nursing and Midwifery  
Federation  
Scheduled Election  
E2023/51

# Contents

Election(s) Covered in Post-Election Report (PER) .....	3
Relevant Legal Provisions .....	3
Declaration of Result of Election .....	6
Ambiguity in ANMF Rules.....	6
Written Allegations of Any Irregularities .....	7
Other Irregularities .....	8
Signed.....	8
A. Declaration of Results for Uncontested Offices .....	8
B. Declaration of Results for Contested Offices.....	8

# Election(s) Covered in Post-Election Report (PER)

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<b>Organisation:</b>	Australian Nursing and Midwifery Federation
<b>Election Decision No:</b>	E2023/51
<b>Election:</b>	Scheduled Election
<b>Date the nominations closed:</b>	23/08/2023
<b>Date ballot closed:</b>	25/10/2023
<b>Date results declared:</b>	27/10/2023
<b>Date PER due:</b>	24/11/2023

## Relevant Legal Provisions

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### *Fair Work (Registered Organisations) Act 2009 ('the Act')*

#### **197 Post-election report by AEC**

##### *Requirement for AEC to make report*

- (1) After the completion of an election conducted under this Part by the AEC, the AEC must give a written report on the conduct of the election to:
  - (a) the General Manager; and
  - (b) the organisation or branch for whom the election was conducted.

Note: The AEC may be able, in the same report, to report on more than one election it has conducted for an organisation. However, regulations made under paragraph 359(2)(c) may impose requirements about the manner and timing of reports.
- (2) The report must include details of the prescribed matters.

##### *Contents of report—register of members*

- (3) If the AEC is of the opinion that the register of members, or the part of the register, made available to the AEC for the purposes of the election contained, at the time of the election:
  - (a) an unusually large proportion of members' addresses that were not current; or
  - (b) in the case of a register kept by an organisation of employees—an unusually large proportion of members' addresses that were workplace addresses;this fact must be included in the report, together with a reference to any relevant model rules which, in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: Model rules are relevant only to the conduct of elections for office, not for elections for other positions (see section 147).

##### *Contents of report—difficult rules*

- (4) If the report identifies a rule of the organisation or branch that, in the AEC's opinion, was difficult to interpret or apply in relation to the conduct of the election, the report must also refer to any relevant model rules, which in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: For model rules, see section 147.

##### *Subsection (3) relevant only for postal ballots*

- (5) Subsection (3) applies only in relation to elections conducted by postal ballot.

Note: An organisation can obtain an exemption from the requirement to hold elections for office by postal ballot (see section 144).

## 190 Organisation or branch must not assist one candidate over another

An organisation or branch commits an offence if it uses, or allows to be used, its property or resources to help a candidate against another candidate in an election under this Part for an office or other position.

Penalty: 100 penalty units.

## 193 Provisions applicable to elections conducted by AEC

- (1) If an electoral official is conducting an election, or taking a step in relation to an election, for an office or other position in an organisation, or branch of an organisation, the electoral official:
  - (a) subject to paragraph (b), must comply with the rules of the organisation or branch; and
  - (b) may, in spite of anything in the rules of the organisation or branch, take such action, and give such directions, as the electoral official considers necessary:
    - (i) to ensure that no irregularities occur in or in relation to the election; or
    - (ii) to remedy any procedural defects that appear to the electoral official to exist in the rules; or
    - (iii) to ensure the security of ballot papers and envelopes that are for use, or used, in the election.

- (2) A person commits an offence if the person does not comply with a direction under subsection (1).

Penalty: 30 penalty units.

- (3) Subsection (2) does not apply so far as the person is not capable of complying.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter mentioned in subsection (4), see subsection 13.3(3) of the *Criminal Code*.

- (5) An offence against subsection (2) is an offence of strict liability.

Note: For **strict liability**, see section 6.1 of the *Criminal Code*.

- (6) An election for an office or other position conducted by an electoral official, or step taken in relation to such an election, is not invalid merely because of a breach of the rules of the organisation or branch because of:

- (a) action taken under subsection (1); or
- (b) an act done in compliance with a direction under subsection (1).

- (7) If an electoral official conducting, or taking a step in connection with, an election for an office or other position:

- (a) dies or becomes unable to complete the conduct of the election or the taking of the step; or
  - (b) ceases to be qualified to conduct the election or to take the step;
- the Electoral Commissioner must arrange for the completion of the conduct of the election, or the taking of the step, by another electoral official.

## 6 Definitions

**irregularity**, in relation to an election or ballot, includes:

- (a) a breach of the rules of an organisation or branch of an organisation; and
- (b) an act or omission by means of which:
  - (i) the full and free recording of votes by all persons entitled to record votes and by no other persons; or
  - (ii) a correct ascertainment or declaration of the results of the voting; is, or is attempted to be, prevented or hindered; and
- (c) a contravention of section 190.

**140 Declaration of result of election (s 193)**

- (1) Within 14 days after the closing day of an election, the AEC must issue a declaration stating the following:
  - (a) the total number of persons on the roll of voters;
  - (b) the total number of ballot papers issued (if applicable);
  - (c) the total number of envelopes that were returned undelivered by the closing day of the ballot to the AEC (if applicable);
  - (d) the total number of ballot papers received by the electoral official by the closing day of the ballot (if applicable);
  - (e) the result of the election;
  - (f) the total number of informal ballot papers (if applicable).
- (2) In subregulation (1), ***closing day***, for an election, means:
  - (a) if a ballot is not required—the day on which nominations for the election close; or
  - (b) if a ballot is required—the closing day of the ballot.
- (3) Immediately after issuing a declaration under subregulation (1), the AEC must give a copy of the declaration to:
  - (a) the General Manager; and
  - (b) the organisation or branch for whom the election was conducted.

**141 Post-election report by AEC (s 197(2))**

- (1) For subsection 197(2) of the Act, the following matters are prescribed for inclusion in the report (the ***post-election report***) given under subsection 197(1) of the Act:
  - (a) the declaration mentioned in regulation 140;
  - (b) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
  - (c) any matters in relation to the roll of voters including those matters contained in subsection 197(3) of the Act;
  - (d) the number of written allegations (if any) of irregularities made to the AEC during the election;
  - (e) action taken by the AEC in relation to those allegations;
  - (f) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
  - (a) give the post-election report within 30 days after the closing day of the election; and
  - (b) publish a notice on its web site advising that a copy of the post-election report can be obtained from the AEC on the request of a member who was eligible to vote in the election.
- (3) The AEC must supply a copy of the post-election report to the member as soon as practicable, but no later than 7 days, after receiving a request under paragraph (2)(b).

**145 Elections conducted by AEC—no unauthorised action**

- (1) For any election conducted by the AEC under Part 2 of Chapter 7 of the Act, a person other than the person conducting the election must not do, or purport to do, any act in the conduct of the election other than as directed or authorised by the person conducting the election.

Note: This subregulation is a civil penalty provision (see regulation 168).
- (2) The AEC must advise the General Manager of a possible contravention of subregulation (1) not later than 21 days after the AEC has become aware of the possible contravention.



# Declaration of Result of Election

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In accordance with reg 140 of the Regulations, the Australian Electoral Commission (AEC) issued declarations for results of election E2023/51 on 30/08/2023 (for uncontested offices) and 27/10/2023 (for contested offices). For copies, see **Attachment A**.

## Ambiguity in ANMF Rules

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Australian Nursing and Midwifery Federation - Rules used for the election:

- 145V: Incorporates alterations of 29 November 2021 (R2021/160)

Rule 87.1 required candidates to inform the Returning Officer of their intention of appointing a scrutineer 'before the commencement of the ballot'. The exact wording is as follows:

- 87.1 A candidate in any Branch election or in any Branch plebiscite or any member of the Branch Council may, if they so desire, appoint a scrutineer who is a financial member of the Federation to represent the candidate or member of the Branch Council at the ballot. The person appointing a scrutineer shall before the commencement of the ballot, notify the Returning officer in writing of the name of such scrutineer. The provisions of sub-rules 50.1.1, 50.1.2, 50.1.3 and 50.1.4 shall apply in relation to the operation of this rule.

The Returning Officer interpreted this rule to mean before the ballot opened, which was on 20 September 2023. Normally, it is understood that the ballot period is from the date and time the ballot opens to the date and time the ballot closes; and after the ballot closes, the scrutiny commences. For this reason, the Returning Officer set the date for the close of scrutineer appointments to be the day before the ballot opened ('commenced') on 19 September 2023. This date was included on the election notice and nomination form, which was made available to members.

The AEC did not receive any scrutineer appointment forms from candidates by 19 September 2023. However, the day before the ballot closed, the Returning Officer was contacted by the Organisation's representative about scrutineer appointments for the following day. The AEC advised the cut-off date for scrutineer appointments had passed.

Given the concerns expressed by the ANMF, the Returning Officer revisited the ANMF rules and formed a view that when rule 87.1 is read in conjunction with Rule 50.1.1, the word 'ballot' appears to refer to the count or scrutiny of the ballot papers. The exact wording is as follows:

- 50.1 Any candidate in any election or, in any plebiscite any member of Federal Council or a Branch Council, may appoint a scrutineer who is a financial member of the Federation to represent the candidate or member of Federal Council or a Branch Council in the counting of the ballot.
- 50.1.1 A scrutineer shall be entitled to be present throughout the ballot and may query the inclusion or exclusion of any vote in the count, but the Returning Officer shall have final determination of any votes so queried.

In consideration of this reading, candidates were allowed to lodge their scrutineer appointment forms up until the commencement of the scrutiny at 10 am AEDT on Wednesday, 25 October 2023.

In the circumstances, we consider the ANMF Rules would benefit from revision to prevent any future ambiguity, and to provide certainty in relation to the date by which scrutineers must be appointed by candidates.

Additionally, approximately 10 per cent of ballot papers were informal, and therefore not included in the count. The AEC estimates that the average informal rate is around 1-2 per cent for large industrial elections like this election. In our view, the high informal rate in this election may be attributed to a combination of the ANMF's rules and the instructions on the ballot paper. Rule 49.2.12(b) provides that:

49.2.12 Any vote in respect of an election shall be informal if:

...

49.2.12 (b) the contents of the ballot paper as marked by the voter do not comply with the instructions printed on it.

The ballot paper included the election for:

Branch President (1 office) – there were 2 candidates

Branch Councillors (14 offices) – there were 15 candidates

The instructions on the ballot paper were:

- The ballot paper must be completed by you, the voter, personally.
- Do not put any mark or writing on the ballot paper by which you can be identified.
- To make your vote count, vote for **NO MORE THAN** the number of candidates to be elected; and **PLACE A CROSS** in the boxes and not a tick.

The vote counting system was First Past the Post (Rule 49.3.3).

Many of the ballot papers were either marked with numbers or ticks which were deemed informal. A large number of voters also sent the ballot papers back without any markings which were also deemed informal.

In our view, if the ANMF Rules had a vote saving provision the informal rate could be reduced. In the circumstances, the AEC recommends the organisation review its rules and consider relevant vote saving provisions, so that if the voter's intention is clear, the vote can still be counted.

## Written Allegations of Any Irregularities

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On 20 September 2023, the AEC received a written allegation of a breach of s 190 of the Act. On 21 September 2023, the AEC issued a direction under s 193(1)(b)(i) of the Act to direct:

- the organisation and branch not to use, or allow to be used, its property or resources to help a candidate against another candidate in election E2023/51; and
- that union officials be made aware of this direction.

## Other Irregularities

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There were no other irregularities.

## Signed

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Hanish Gupta  
Returning Officer  
Australian Electoral Commission  
E: [IEBevents@aec.gov.au](mailto:IEBevents@aec.gov.au)  
P: 03 9285 7111  
22 November 2023

## Attachments

- A. Declaration of Results for Uncontested Offices
- B. Declaration of Results for Contested Offices

# Australian Nursing and Midwifery Federation

## Victorian Branch

### DECLARATION OF RESULTS - E2023/51

#### Contested Offices

##### Scheduled 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:

##### Victorian Branch

<b>VOTING MATERIAL ISSUED</b>	
Total number of people on the roll of voters (a)	94,904
Number of voters issued with voting material	94,901
Total number of voters issued with replacement voting material	20
<b>Total number of voting material packs issued</b>	<b>94,921</b>
<b>VOTING MATERIAL RETURNED</b>	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	16,307
Number of declaration envelopes rejected at preliminary scrutiny (minus)	162
Number of ballot papers returned outside declaration envelopes (minus)	65
<b>COUNT</b>	
Total ballot papers admitted to the count	16,080
<b>LATE OR UNRETURNED VOTING MATERIAL</b>	
Voting material returned as unclaimed mail by closing date of ballot	857
Voting material packs not returned by voters by closing date of the ballot	77,757
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	17.18 %

##### Branch President (1)

###### Candidates

BURGESS, Maree

MCGUINNESS, Quinn

###### Final Votes

9,940

5,611

##### Total ballot papers admitted for this office

Formal Ballot papers

Informal Ballot papers

**16,080**

15,551

529

I declare the following elected:

- BURGESS, Maree

## Branch Councillors (14)

<u>Candidates</u>	<u>Final Votes</u>
CONNAN, Melinda	9,599
INGLETON, Roxane	9,678
HURRELL, Damien	9,131
SPINELLI, Adrian	10,392
MORALES, Catherine	9,054
FOORD, Judy	8,988
GONO, Allington	9,216
MASON, Kate	10,437
WILLIAMS, Catherine	9,986
KENNY, Anna	9,645
BLOOM, Ruth	9,732
SOMERVILLE, Kylie	9,327
MCGUINNESS, Quinn	8,161
BERNIARD, Natalie	9,674
MOLINARI, Audrey	9,183

<b>Total ballot papers admitted for this office</b>	<b>16,080</b>
Formal Ballot papers	14,935
Informal Ballot papers	1,145

I declare the following elected:	Order Elected
• MASON, Kate	1
• SPINELLI, Adrian	2
• WILLIAMS, Catherine	3
• BLOOM, Ruth	4
• INGLETON, Roxane	5
• BERNIARD, Natalie	6
• KENNY, Anna	7
• CONNAN, Melinda	8
• SOMERVILLE, Kylie	9
• GONO, Allington	10
• MOLINARI, Audrey	11
• HURRELL, Damien	12
• MORALES, Catherine	13
• FOORD, Judy	14

Benjamin Murray  
Returning Officer  
Telephone: 03 9285 7111  
Email: IEBevents@aec.gov.au



18 September 2023

Lisa Fitzpatrick  
Branch Secretary  
Australian Nursing and Midwifery Federation - Victorian Branch  
Sent via email: [records@anmfvic.asn.au](mailto:records@anmfvic.asn.au)

cc: Annie Butler, [fedsec@anmf.org.au](mailto:fedsec@anmf.org.au)

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Yours sincerely

**Fair Work Commission**



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**Australian Nursing and Midwifery Federation**  
**Victorian Branch**  
**DECLARATION OF RESULTS - E2023/51**  
**Uncontested Offices**

---

**Scheduled 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:

**Victorian Branch**

**Branch Vice President (1)**

Candidates

FOREMAN Emma

**Branch Executive Member (4)**

Candidates

CARRON Mel

JONES Marie

MCKENZIE Steve

REID Kate

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

Benjamin Murray  
Returning Officer  
Telephone: 03 9285 7111  
Email: IEBevents@aec.gov.au  
30/08/2023





Fair Work  
Commission

## DECISION

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

**Australian Nursing and Midwifery Federation**  
(E2023/51)

MR STEENSON

SYDNEY, 30 MARCH 2023

*Arrangement for conduct of election.*

[1] On 16 March 2023 the Victorian Branch of the Australian Nursing and Midwifery Federation (ANMF) lodged with the Fair Work Commission prescribed information for an election to fill the following offices for a new term of office:

Branch President	(1)
Branch Vice President	(1)
Branch Executive Member	(4)
Branch Councillors	(14)

[2] ANMF rule 83.1 provides that, for the offices of Branch President and Branch Vice President, the term of office shall be two years. However, rule 83.2 permits a Branch Council to resolve to change the term of office for the Branch President and Vice President to four years. The prescribed information notes that these offices expire in November 2023 and that the Branch Council has resolved to call for nominations for these offices this year. It appears that no resolution has been made to alter the length of the term of office.

[3] 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 *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE GENERAL MANAGER

Printed by authority of the Commonwealth Government Printer

PR755018



**Australian  
Nursing &  
Midwifery  
Federation**  
VICTORIAN BRANCH

535 Elizabeth Street  
Melbourne Victoria 3000  
ABN 80 571 091 192

Box 12600 A'Beckett Street PO  
Melbourne Victoria 8006

**anmfvic.asn.au**

t 03 9275 9333

f 03 9275 9344

e [records@anmfvic.asn.au](mailto:records@anmfvic.asn.au)

LF:vs

16 March 2023

Mr Murray Furlong  
General Manager  
Fair Work Commission  
Level 4 / 11 Exhibition Street  
MELBOURNE VIC 3000

Email: [melbourne@fwc.gov.au](mailto:melbourne@fwc.gov.au)

Dear Mr Furlong

I am an officer of the Australian Nursing and Midwifery Federation (Victorian Branch) authorised to sign the information contained herein. This information is being lodged pursuant to subsection 189(1) of the Fair Work (Registered Organisations) Act 2009.

In accordance with Chapter 10 - Standard Branch Rules - Rule 85.1.1 of the Rules of the Australian Nursing and Midwifery Federation (ANMF) and the Fair Work (Registered Organisations) Act 2009, I am writing to request that you make arrangements with the Australian Electoral Commission to conduct an election for the following offices of the Victorian Branch of the ANMF:

Branch President - One (1)  
Branch Vice-President - One (1)  
Branch Executive Members - Four (4)  
Branch Councillors - Fourteen (14)

The reason for the election is that the term of office for the above positions will expire in the normal course of events on 30 November 2023.

With respect to ANMF Rule 65.2.3, the number of Branch Councillors was determined to be fourteen (14) at a meeting of the Branch Council on 11 May 2012. Please find below extract of the minutes of that meeting confirming this:

11.4.2 Resolution for ANMF Vic Branch Council elections

As an election for the positions of Branch Councillors at ANMF Vic Branch will take place this year, the following resolution was passed by Branch Council:

Motion: moved R Bloom, M Carron

"That it be determined that, pursuant to Rule 65.2.2 and 65.2.3 of the Rules of the Australian Nursing and Midwifery Federation, the number of Branch Councillors on the Australian Nursing and Midwifery Federation (Victorian Branch) Council be fourteen (14) and, further, that in accordance with Rule 85.1.1 of the Rules, the Fair Work Commission be requested to make arrangements with the Australian Electoral Commission to conduct an election for the following offices of the Victorian Branch of the ANMF:

- Branch President - One (1)
- Branch Vice President - One (1)
- Executive Members - Four (4)
- Branch Councillors - Fourteen (14)."

CARRIED

With regard to the electorate, the election will be by and from the financial members of the Victorian Branch of the ANMF.

Concerning the date and time of the beginning and end of the period in which nominations of candidates will be called for it is stated in Rule 85.1.1:

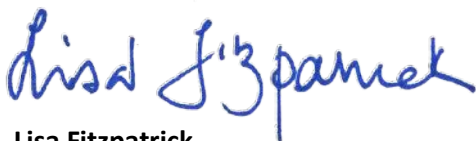
*"Elections for the office of Branch President, Branch Vice President, Branch Executive member and Branch Councillor in Branches other than the Queensland Branch shall be conducted between the first day of September and the 30th day of October in each alternate year, provided that the Returning Officer may call for nominations prior to the first of September in the year of elections".*

Pursuant to ANMF Rule 85.4.1 the roll of voters is to be closed seven days before the day on which nominations open.

The voting system to be used in the conduct of the election is the direct voting system.

If there are any matters you wish to discuss, please contact me via [records@anmfvic.asn.au](mailto:records@anmfvic.asn.au) in the first instance, or on my mobile [REDACTED].

Yours sincerely



**Lisa Fitzpatrick**  
**Secretary**  
**ANMF (Vic Branch)**