



DECISION

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

The Australasian Meat Industry Employees Union
(E2024/94)

MR STEENSON

SYDNEY, 16 DECEMBER 2024

Arrangement for conduct of election.

[1] On 20 November 2024 the Australasian Meat Industry Employees Union (**organisation**) lodged with the Fair Work Commission (**Commission**) prescribed information for an election to fill the following offices for a new term of office:

Federal Secretary Treasurer	(1)
Assistant Federal Secretary Treasurer	(1)
Federal President	(1)
Federal Vice-President	(1)

[2] I note that alterations to the organisation’s rules certified on 3 March 2022 (R2021/183) established a new office of Assistant Federal Secretary Treasurer. Among other things, the alterations inserted rule 17.4A which provides that ‘if the Federal Council determines that the office of Federal Secretary Treasurer is to be filled on a part time basis, then an office of Assistant Federal Secretary Treasurer shall be elected according to these rules.’

[3] Staff of the Commission have conducted a search of Commission records and concluded that no election has been held for the office of Assistant Federal Secretary Treasurer since its inception. Information provided by the organisation on 10 and 12 December 2024 indicates that the role is currently filled by a person identified as ‘acting’ in that role, having been apparently appointed to it by the Federal Executive sometime in July 2021.

[4] The information provided by the organisation therefore indicates that the person was ‘appointed’ prior to the creation of the office by the rule alteration R2021/183. This may be as a result of the proposed amendments initially being included as part of the previous rule alteration application, R2021/47, which were certified on 9 June 2021. However, the proposed rule introducing the Assistant Federal Secretary Treasurer was ultimately not certified by the Commission in rule alteration application R2021/47.

[5] It should be noted that the organisation's rules make it clear that, if the office of Assistant Federal Secretary Treasurer is required as a result of the office of the Federal Secretary Treasurer being filled on a part time basis, an election (rather than an appointment) is required to fill that office.

[6] Further, the organisation ought to be acutely aware of issues surrounding rule alterations and the creation and removal of offices, given its previous involvement in a Federal Court matter, *Patrick John Roughan v the Australasian Meat Industry Employees' Union*¹, which itself dealt with a previous incarnation of the office of Assistant Federal Secretary.

[7] The organisation is reminded that the default position in the *Fair Work (Registered Organisations) Act 2009 (RO Act)* is that officers must be elected rather than appointed, unless the rules specifically provide for appointment in accordance with section 146 of the RO Act, i.e. a casual vacancy appointment where the vacancy arises after a prescribed part of the term has already expired.

[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 RO Act, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE GENERAL MANAGER

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¹ [1992] FCA 327.

THE AUSTRALASIAN MEAT INDUSTRY EMPLOYEES' UNION

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20 November 2024

The Registered Organisations Sections
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

Dear Sir or Madam,

Re: Election of AMIEU Federal Office Bearers

In accordance with subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009*, I wish to advise the General Manager of the need to conduct an election for Federal Officers of the Australasian Meat Industry Employees' Union.

The AMIEU received a reminder letter in May of this indicating the Commission's understanding that an election of officeholders was due in September 2024. The AMIEU corresponded with the Registered Organisations Section regarding this matter, as this differed from our understanding of the required timing. The Registered Organisations Section advised that the reminder letter had been automatically generated, and failed to take into account the disruption of election cycles during the Covid-19 pandemic.

During the discussions which ensued, it appeared that the Registered Organisations Section and the AMIEU both held the view that the election of federal officeholders would now be due by March 2025.

Consequently, in accordance with Regulation 138 of the *Fair Work (Registered Organisations) Act 2009*, I am providing the following prescribed information:

(a) The name of each officer or position for which an election is required:

- (i) Federal Secretary Treasurer
- (ii) Assistant Federal Secretary
- (iii) Federal President
- (iv) Federal Vice President

Regional Offices

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NB: The current office of Federal Secretary Treasurer is filled on a part-time basis, and therefore rule 17.4A of the Union's rules require the election of an Assistant Federal Secretary.

- (b) The reason for the election is that the term of office of these officers is due to expire in the normal course of events;
- (c) The offices referred to above are singular offices. There is to be one Federal Secretary Treasurer, one Assistant Federal Secretary, one Federal President, and one Federal Vice-President elected.
- (d) The electorate for each of these offices is the members of the Federal Council of the AMIEU. A current copy of the list of all such members of the Federal Council is attached.
- (e) There is ambiguity in the rules relating to the relevant dates for opening and closing nominations.
 - (i) Rule 17.8 of the Union's rules provide that nominations shall open "at least" fourteen days before the close of nominations.
 - (ii) The date upon which nominations are to close is however left to the discretion of the Returning Officer (which, in the absence of an exemption being obtained, is the Australian Electoral Commission, see Rule 17.6).
 - (iii) Further there is no set time period for the conduct of the ballot.
 - (iv) In anticipation of the ballot being conducted by post, I have proposed the following timeline, adapting the provision made for postal ballots in the rules relating to branch elections and the return of ballots (Rule 50.14). The suggested timeline is therefore:

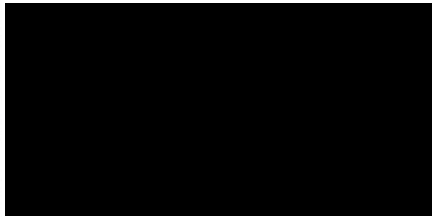
Date for opening nominations: 20 January 2025
Date for closing nominations: 3 February 2025
Date for close of ballot: 10 March 2025
 - (v) The AMIEU has no objection to the AEC adjusting or amending the proposed timetable as it sees fit.
- (f) There is no day provided in the rules for the roll of voters to close. In this regard, the AMIEU notes that the electorate for this ballot comprises the members of the Federal Council (see Rules 17.2 and 17.3) which is a fixed body of identifiable officials. The composition of the electorate is essentially a static body not subject to change, except where a casual vacancy arises.

- (g) The kind of system to be used in the election is described as a collegiate system, in that the first stage is the election of members to the Federal Council, which occurs quadrennially. This ballot is to effectively be the second stage of the system, whereby Federal Council members in turn vote directly for the election of Federal office holders.

Accordingly, I would ask the Fair Work Commission to take appropriate steps to make arrangements for the conduct of the abovementioned elections.

Please do not hesitate to contact me if you have any queries regarding the matter.

Yours sincerely,



Matthew Journeaux
Federal Secretary
Australasian Meat Industry Employees' Union