



DECISION

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

Traffic Management Association of Australia
(E2024/212)

MR STEENSON

SYDNEY, 16 JANUARY 2025

Arrangement for conduct of election.

[1] On 19 December 2024 the Traffic Management Association of Australia (**organisation**) lodged with the Fair Work Commission prescribed information for an election to fill casual vacancies in the following offices for the remainder of the term:

President	(1)
Vice President	(1)
Management Committee member representing Victoria	(1)

[2] The abovementioned casual vacancies arose from two of the elected officers resigning. One resigned from the office of President in December 2024, noting that they intended to remain in the office of Committee member representing Queensland. The other resigned from the offices of Vice President and of Management Committee (**Committee**) member representing Victoria in June 2024.

[3] The Committee determined, in August 2024, purporting to use rule 6.6 of the organisation's rules,¹ to appoint someone as Victorian Committee member for a period of six months.

[4] Rule 6.6 refers to casual vacancies, and provides that:

- (a) Any casual vacancy on the Management Committee **to be for a period of less than six (6) months** may be filled by the Management Committee as follows:
 - (i) Seconding a Member who stood for election but was unsuccessful at the previous election or;
 - (ii) Seconding any Member who has skills or ability suitable for service on the Committee; or
 - (iii) Leaving the position vacant.
- (b) Any casual vacancy for a period of **more than six (6) months** may be filled by an election held according to the Rules described in Rule 7.

[emphasis added]

¹ Rulebook R2023/127.

[5] The ordinary and reasonable interpretation of this rule is that vacancies less than six (6) months in duration can be filled by appointment under rule 6.6.(a) but that vacancies of more than six (6) months duration fall under rule 6.6(b).

[6] However, the Committee has apparently sought to interpret rule 6.6. to justify appointment of a person for a period of 6 months, and then seek to hold an election to fill the office for the remainder of the term.

[7] If the intention of the rule was to allow for a short-term temporary appointment pending an election, then it should say so. As it is presently written, it does not. If, going forward, the organisation seeks to have such an arrangement then it would need to alter its rules to provide for that.

[8] Under the organisation's rules, as they currently stand, are such that for vacancies that arise with more than six (6) months remaining in the term of office, the organisation should lodge prescribed information as soon as possible after a casual vacancy has arisen, to ensure all vacant offices are filled in a timely manner, as appointment is not available under rule 6.6(a).

[9] The making of appointments to office beyond the powers set out in the organisation's rules can leave it exposed to an application to the Federal Court by a member of the organisation under section 164 and/or 164A of the *Fair Work (Registered Organisations) Act 2009* (**RO Act**) for enforcement or proper performance of the rules.

[10] The prescribed information also refers to the request for election for the Committee member from Victoria as being 'scheduled'. However, given that this is not a scheduled election (i.e. the election to be held every two years for a new term of office), the election of Victorian Committee member is also considered a casual vacancy election.

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

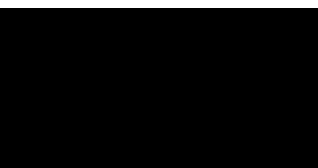
I, Tynan Diaz, being the Secretary of the Traffic Management Association of Australia (TMAA) make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Traffic Management Association of Australia (TMAA).
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 B.
4. No rule alterations are pending that will impact the election.
5. This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure B.
6. In accordance with TMAA's Rule 6, the Association has confirmed that one (1) Member of the Management Committee is required to be elected by and from the Members eligible to vote residing in the relevant State, provided that the State has an available Member to be elected to the Management Committee.

The rule number(s) which specify(s) the formula(s) are Rule 7.4 (c), 7.4 (f), 7.6 (c), 7.9 (b).

The formulas are nominations for the Direct Voting system open no less than 90 days (13 February 2025) before the General Meeting date (13 May 2025). The closing time for Direct Voting system shall be no more than 14 days after the date that nominations open (27 February 2025). The time and date of closure of the roll of members shall be no more than 30 days before and no less than 7 days before the opening of nominations (6 February 2025). The collegiate elections date will be determined by the Returning Officer. The relevant dates have been outlined in this section.

Signed:



Tynan Diaz
TMAA Secretary

Dated: 18 December 2024

NOTE: This statement, together with Annexure B, must be lodged with the Fair Work Commission at least 2 months prior to nominations opening. It can be submitted by email to regorgs@fwc.gov.au.

Annexure B

- Elections that are required:

Division	Name of Office	Number required	Voting System	Reason for Election	Electorate
For the election of officers					
National	President	1	Collegiate electoral system	Casual vacancy	Elected Management Committee Members, as per TMAA Rule 7.9.
National	Vice President	1	Collegiate electoral system	Casual vacancy	Elected Management Committee Members, as per TMAA Rule 7.9.
Victoria	Member of Management Committee, VIC representative.	1	Direct Voting System	Scheduled	All Members eligible to vote residing in VIC, as per TMAA Rule 7.

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	13 February 2025, Rule 7.4 (c)	To be determined by Returning Officer but TMAA has a strong preference for the suggested dates on the left as the entire Management Committee of TMAA will meet in Sydney on Tuesday 13 May 2025 in Sydney, as part of National Road Safety Week. The specific location and time will be confirmed at a later date.
Nominations CLOSE	27 February 2025, Rule 7.4 (f)	As above

Roll of Voters cut off date	6 February 2025, Rule 7.6 (c)	As above
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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.