



## DECISION

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

### **The Association of Professional Engineers, Scientists and Managers, Australia**

(E2014/166)

MR ENRIGHT

MELBOURNE, 14 AUGUST 2014

*Arrangement for conduct of election.*

[1] On 23 June 2014 The Association of Professional Engineers, Scientists and Managers, Australia lodged with the Fair Work Commission the prescribed information in relation to an election for the following offices:

Professional Scientists Division:

Division Committee Member – members resident in Queensland

Division Committee Member – members resident in ACT

Pharmacists Division:

Division Committee Member – members resident in ACT

Division Committee Member – members of the Division (3)

[2] 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.



[2014] FWCD 5544

DELEGATE OF THE GENERAL MANAGER

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**Professionals  
Australia**

GPO Box 1272  
Melbourne  
Victoria 3001

The General Manager  
Fair Work Commission  
GPO Box 194  
MELBOURNE VIC 3001

Dear Ms O'Neill,

**RE: APESMA RECALL ELECTION REQUEST**

In accordance with s.138 (2) of Part 7 of the Fair Work (Registered Organisations) Regulations 2009 concerning prescribed information, I am writing to apply for an election to fill the unfilled vacancies which exist on the Professional Scientists Division Committee and the Pharmacists Division Committee.

This request is made in accordance with Division Rule 14.1.6.1 of the APESMA Rule Book which requires that in the event that there are no more nominations than there are vacancies for an office that each vacancy be filled by the conduct of a de novo election to the extent possible in accordance with Division Rule 14.

Please find enclosed the following documents:

1. The Returning Officer's Declaration of Results for Uncontested and Contested Officers for Stage 1 – Division/Sub-division Committees & Divisional Offices – 3 December 2013
2. The Returning Officer's Declaration of Results for Contested and Uncontested Offices for Stage 2 – RECALL – Vacancies from Stage 1.

Following the conduct of the recall election, the following unfilled vacancies remain unfilled on the Professional Scientists Division Committee and Pharmacists Division Committee.

1. Professional Scientists Division
  - (a) Division Committee member – members resident in Queensland.
  - (b) Division Committee member – members resident in ACT.
2. Pharmacists Division
  - (a) Division Committee member – members resident in ACT
  - (b) Division Committee Member – members of the Division (3).



Accordingly the Association requests that a de-novo election be conducted in respect of these unfilled vacancies.

Federal Rule 26 – Casual Vacancies cannot be utilised for the filling of unfilled vacancies as this Rule defines casual vacancies as occurring when;

*“a person holding such office:*

*26.1.1 dies; or*

*26.1.2 tenders their resignation from office and such resignation is accepted by the National Assembly or in the case of a member of a Division Committee, Sub-Division Committee is accepted by the Committee; or*

*26.1.3 is expelled from the Organisation; or*

*26.1.4 during a period of office, transfers to another Division or Sub-Division occurs under Rule 11.2; or*

*26.1.5 is removed from office in accordance with these Rules or in case of a member of a Division or Sub-Division, in accordance with the rules of the Division or Sub-Division concerned; or*

*26.1.6 ceases to be a member of the Organisation in consequence of their resignation from membership.”*

The voting system for elections will be by direct election in that the positions would be elected by and from members of the respective electorates for the particular Division or by and from all members of the Division as the case may be.

In addition as the request is for a de novo election the closure of membership rolls and the date and time of the beginning and end of the period in which nominations of candidates will be called/made will need to be determined by the Returning Officer.

Accordingly I await your advice in relation to arrangements for the conduct of a ballot to fill these casual vacancies.

Yours sincerely



Robyn Porter  
NATIONAL SECRETARY