

8 November 2021

Post-election report

The Australian Institute of Marine and
Power Engineers
Scheduled election
E2021/2

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Election(s) Covered in this Report

Organisation: The Australian Institute of Marine and Power Engineers

Election: Scheduled

Election Decision No/s: E2021/2

Rules

Rules used for the election:

[009V: Incorporates alterations of 11 June 2021 in matter R2021/90]

(replaced rule book dated 14 January 2021 [R2020/127])

Rules difficult to apply/interpret: N/A

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website: www.aec.gov.au/ieb/

Other Matters

Returning Officer actions required (Section 193): Yes

Details:


The matters in which I have exercised the authority given to me by s.193 of the Act are:

- Method of publication of the Election Notice is silent in the rules of the Organisation. To fix this issue, the Returning Officer applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 and sent the election notice by email to relevant electorate.
- Nomination opening date is silent in the rules of the Organisation. To fix this issue, the Returning Officer has applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 and opened the Nomination after seven days from the close of the roll.
- Due to Covid-19, the nomination could not be closed at the first day of the annual meeting of the federal council as the election would be conducted by post. To fix this issue, the Returning Officer has applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 and closed the nomination period within two weeks from the opening date of the nomination.
- As there is no rule pertaining to the withdrawal of Nomination, the Returning Officer has applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 and fixed a

closing time for the withdrawal of nomination and the withdrawal period was closed after 4 days from the close of the nomination.

- Due to Covid-19, the ballot could not be conducted by attendance at the annual meeting of the federal council. To fix this issue, the Returning Officer has applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 and conducted the ballot by post.
- Rules regarding the timetable of the election were set aside as the AEC held concerns that the coronavirus pandemic may impact on the ability for stakeholders to fully participate in the election. A timetable for the conduct of the ballot which varied from the rules was set when the AEC was satisfied that stakeholders would be able to fully participate.
- Rules requiring an in-person ballot were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for all stakeholders to attend. Instead the ballot was conducted via post.
- Rules specifying the method of lodgement of nominations were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for potential candidates to nominate. Instead nominations were received electronically, via email/the AEC's portal.

Signed



Ishtiaq Ahmed
Returning Officer
Australian Electoral Commission
E: IEEvents@aec.gov.au
P: 02 9375 6331
8 November 2021

Attachments

- A. Declaration of results for Contested Offices – Stage 1
- B. Declaration of Results for Uncontested Offices – Stage 2

The Australian Institute of Marine and Power Engineers
DECLARATION OF RESULTS - E2021/2 - Stage 2
Uncontested Offices

Scheduled Election

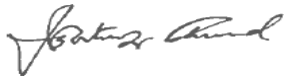
The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

Senior Vice President (1)

Candidates

HARTREE John William

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



Ishtiaq Ahmed
Returning Officer
Telephone: 02 9375 6331
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14/10/2021



The Australian Institute of Marine and Power Engineers

DECLARATION OF RESULTS - E2021/2 - Stage 1

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:

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	17
Number of voters issued with voting material	17
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	17
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	17
Number of declaration envelopes rejected at preliminary scrutiny (minus)	0
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	17
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	0
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	100 %

President (1)

<u>Candidates</u>	<u>Final Votes</u>
READY, Brad	6
BYRNE, Martin	11

Total ballot papers admitted for this office	17
Formal Ballot papers	17
Informal Ballot papers	0

I declare the following elected:

- BYRNE, Martin

Vice President (3)

<u>Candidates</u>	<u>Final Votes</u>
TOOHEY, Peter	8
HARTREE, John William	11
PEBERDY, David	17
ROOTS, Peter	6
JONES, Mark Evan	8

Total ballot papers admitted for this office	17
Formal Ballot papers	17
Informal Ballot papers	0

I declare the following elected:

	Order Elected
• PEBERDY, David	1
• HARTREE, John William	2
• TOOHEY, Peter	3

Note: Mark Evan Jones and Peter Toohey each received 8 votes. Peter Toohey was elected by lot according to the rules of the Organisation.

Treasurer (1)

<u>Candidates</u>	<u>Final Votes</u>
FLETCHER, Malcolm	7
MCALLISTER, Ian	10

Total ballot papers admitted for this office	17
Formal Ballot papers	17
Informal Ballot papers	0

I declare the following elected:

- MCALLISTER, Ian

Ishtiaq Ahmed
Returning Officer
Telephone: 02 9375 6331
Email: IEEvents@aec.gov.au
02/09/2021



DECISION

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

The Australian Institute of Marine and Power Engineers (E2021/2)

MR STEENSON

SYDNEY, 19 MARCH 2021

Arrangement for conduct of election.

[1] On 4 February 2021 the Australian Institute of Marine and Power Engineers (the **organisation**) lodged with the Registered Organisations Commission (**Commission**) prescribed information for an election to fill the following offices:

Federal Executive

President	(1)
Senior Vice President	(pursuant to rule 10)
Vice President	(3)
Treasurer	(1)

[2] As part of its standard assessment of the prescribed information, staff of the Commission identified that the previous scheduled election for these offices, for which a decision had been issued by a Delegate of the Commissioner on 7 April 2020 (**E2020/5**), had not yet been conducted. The rules of the organisation indicate that the conduct of this annual collegiate election is consequential upon the declarations of results for a series of branch elections, the results of which establish the electorate for the offices listed above.

[3] Commission staff made enquiries with the Australian Electoral Commission (**AEC**) on 18 March 2021 in relation to those matters and established that a number of the organisation's scheduled 2020 branch elections had not yet occurred. The primary reason for this was the delay in timetabling and conduct of these elections for most of 2020 due to the Covid-19 pandemic. Staff of the AEC advised that the election timetable for the now-delayed E2020/5 collegiate election would now likely take place on a similar timetable as that projected for this matter (E2021/2).

[4] The provisions of section 189 of the *Fair Work (Registered Organisations) Act 2009* (**the Act**) and the rules of the organisation are such as to require that the organisation lodge prescribed information with the Commission for all scheduled elections required by the

organisation's rules. It is clear, however, that the conduct of election E2021/2 at the same time and for the same offices as the delayed E2020/5 would in effect be entirely a duplication of the required election. Such duplication would not further promote the objectives of the Act for democratic control of registered organisations when a single election would achieve that same objective.

[5] Consequently, I have determined that an election is required for the abovenamed offices, and I am making arrangements, in accordance with section 189(3) of the Act, for the AEC to conduct an election for these offices.

[6] However, the AEC is only required to conduct one election for the abovenamed offices and if the AEC were to now conduct the election for E2020/5 that would satisfy the requirement to conduct the elections sought in this matter (E2021/2).



DELEGATE OF THE COMMISSIONER

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PR351870

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, Martin Byrne being the Federal President of the Australian Institute of Marine and Power Engineers (AIMPE) make the following statement:

1. I am authorised to sign this statement containing prescribed information for AIMPE.
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. I draw the attention of the Commission to the fact that the 2020 elections for the same positions have not been conducted due to the various restrictions imposed as a result of the COVID-19 pandemic. Instead, the office holders elected in 2019 have continued in office under the holding over principle.
5. A brief outline of the proposed rule alterations affecting this election is attached. For the reasons outlined, these rule alterations HAVE NOT been lodged with the Fair Work Commission.
6. In addition, AIMPE is aware of the proposed schedule of COVID-19 rules which have been recommended by the Fair Work Commission. Notice was given on 28th January 2021 to the AIMPE Federal Council of a proposal to adopt a rule change based on the proposed schedule. The AIMPE rule require 60 days' notice of rule changes by postal ballot.
7. This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure A.

NOTE: A failure to lodge Prescribed Information on time can lead to civil penalties under the RO Act. Extensions of time should be requested at least two months before nominations open.

Signed: 

Dated: 4th February 2021

NOTE: This statement should be lodged with the Registered Organisations Commission at least 2 months prior to nominations opening. It can be submitted to regorgs@roc.gov.au.

Annexure A

Elections that are required

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
National	President	1	Collegiate electoral system	Scheduled	<i>Federal Council (rule 5(ii) & rule 33A)</i>
National	Vice President	3	Collegiate electoral system	Scheduled	<i>Federal Council (rule 5(ii) & rule 33A)</i>
National	Treasurer	1	Collegiate electoral system	Scheduled	<i>Federal Council (rule 5(ii) & rule 33A)</i>
National	Senior Vice President (elected from among the 3 Vice Presidents)	1	Collegiate electoral system	Scheduled	<i>Federal Council (Rule 10)</i>

- Important dates:

		Collegiate Electoral System
Nominations OPEN		<i>Estimated 8th June 2020 at a time fixed by the Returning Officer (rule 33A (iii))</i>
Nominations CLOSE		<i>15th June 2020 at a time fixed by the Returning Officer (rule 33A (iii))</i>
Roll of Voters cut off date		<i>15th June 2020 at a time fixed by the Returning Officer (rule 33A (iii))</i>

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.

If the P.I. includes a position that is not an office, please refer to our template [Prescribed information for the election of officer and non-officer positions](#)

The following Proposed RULE CHANGE 1 was circulated to members of Federal Council on 4th March 2019 giving 60 days of notice in accordance with rule 38 Alteration or rescission of rules [Rule 38 (iii)]

“That Rule 33 A (i) and (ii) be deleted and replaced with the following:

- “(i) At least two months prior to the date set for the opening of the Federal Council, the Federal President shall lodge with the Registered Organisations Commission (ROC), the prescribed information relating to the Federal Executive election as required by section 189(1) of the Fair Work (Registered Organisations) Act 2009 & regulation 138 of the Regulations. The Commissioner shall, when satisfied that an election is due to be held, make arrangements for the conduct of the election by the Australian Electoral Commission (AEC). The AEC shall appoint a Returning Officer who will conduct the elections for Federal Executive positions.

- (ii) The members of the Federal Council shall elect a Federal Executive, from amongst their own number, consisting of a Federal President, a Federal Treasurer & three (3) Vice Presidents, for a term of one (1) year or until the next Annual Meeting of the Federal Council. Federal Council shall also elect a Senior Vice President from amongst the three newly elected Vice Presidents.”

The Rule changes was subsequently approved by the ballot of Federal Councillors and presented to special meeting of members [in several locations around Australia]. The application for approval of the rule change was filed in August 2019. FWC advised AIMPE in November 2019 that FWC had concerns about the quorum provisions relating to special meeting. AIMPE provided a response to FWC concerns in December 2019.

On 3rd June 2020 the Fair Work Commission declined to approve the rule change application not because of any concern with the content of the proposed rule change but because of a process issue. That process issue was that the AIMPE Rules did not contain quorum for the special meetings which are required to approve any rule change. Accordingly, on 21st August 2020 AIMPE made application to amend the rules in relation to special meeting quorum provisions.

Subsequently, the AIMPE Rules have been changed to insert quorum provisions for special meetings - see Decision in The Australian Institute of Marine and Power Engineers (R2020/127) issued 14 January 2021.

As at time of filing this notice, the Federal Executive has not yet had time to re-submit the above rule change proposal to the Federal Council members but it is my intention to recommend to the Federal Executive that AIMPE take this course of action.