



DECISION

Fair Work (Registered Organisations) Act 2009

s.183—Application for organisation or branch to conduct its elections for office

Australian Nursing and Midwifery Federation-New South Wales Branch (R2018/144)

MR ENRIGHT

MELBOURNE, 21 SEPTEMBER 2018

Application for organisation or branch to conduct its elections for office.

[1] On 14 June 2018 the New South Wales Branch of the Australian Nursing and Midwifery Federation (**ANMF-NSW**) lodged with the Registered Organisations Commission (**ROC**) an application, pursuant to section 183(1) of the *Fair Work (Registered Organisations) Act 2009* (**RO Act**), to be exempted from subsection 182(1) – the requirement that the Australian Electoral Commission (**AEC**)_conducts elections for office in registered organisations – in relation to a collegiate election for the offices of Branch President, Branch Vice President, and six (6) Branch Executive Members.

Legislation

[2] Section 186 of the RO Act empowers the Registered Organisations Commissioner (**the Commissioner**) to grant exemptions from the requirement that the AEC conduct elections for office.

[3] Section 186(1) of the RO Act provides that:

“Where an application in relation to an organisation or branch has been lodged under subsection 183(1) and, after any objections duly made have been heard, the Commissioner is satisfied:

- (a) that the rules of an organisation or branch comply with the requirements of this Act relating to the conduct of elections for office; and*
- (b) that, if the organisation or branch is exempted from subsection 182(1), the elections for the organisation or branch, or the election for the particular office, as the case may be, will be conducted:*
 - (i) under the rules of the organisation or branch, as the case may be, and this Act; and*
 - (ii) in a manner that will afford members entitled to vote at such elections or election an adequate opportunity of voting without intimidation;*

the Commissioner may exempt the organisation or branch from subsection 182(1) in relation to elections for the organisation or branch, or the election for the particular office, as the case may be”.

[4] Section 183(2) of the RO Act requires that:

“An application may not be made by a committee of management of an organisation or branch of an organisation unless the committee of management:

- (a) has resolved to make the application; and*
- (b) has notified the members of the organisation or branch, as prescribed, of the making of the resolution”.*

[5] Regulation 133(2) of the *Fair Work (Registered Organisations) Regulations 2009 (the RO Regulations)* provides that, for section 183(2)(b) of the RO Act:

“a member of an organisation or branch is notified of the making of the resolution if:

- (a) the member is given a copy of the resolution; or*
- (b) a notice of the making of the resolution is published:*
 - (i) if the organisation or branch published a journal that is circulated among its members--in the next journal; and*
 - (ii) if the organisation or branch has a web site--on that web site within 14 days after the resolution is made”.*

[6] Section 183(3) of the RO Act requires that:

“An application under subsection (1) must be accompanied by a declaration by a member of the committee of management concerned stating that subsection (2) has been complied with”.

[7] Regulation 133(1) of the RO Regulations prescribes that an application must:

- “(a) be in writing; and*
- (b) state the grounds for seeking the exemption; and*
- (c) contain a declaration signed by a member of the committee of management verifying the facts set out in the application; and*
- (d) be lodged with the Commissioner”.*

[8] Applications for exemption must be advertised. Relevantly, section 183(4) of the RO Act requires that:

“Where an application has been made under subsection (1), the Commissioner must cause a notice setting out details of the application to be published, as prescribed, for the purpose of bringing the notice to the attention of members of the organisation or branch concerned”.

[9] Section 184 of the RO Act states that:

- “(1) Objection may be made to an application under subsection 183(1) by a member of the organisation or branch of the organisation in relation to which the application was made.*
- (2) The Commissioner must, as prescribed, hear the application and any objections duly made”.*

[10] Regulation 135(1) of the RO Regulations provides that:

“(1) An objection under subsection 184(1) of the Act may be made by lodging a notice of objection with the FWC no later than 28 days after the publication of the notice mentioned in subregulation 134(1).”

[11] Regulation 136 of the RO Regulations states:

“(1) The Commissioner must:

(a) fix a time and place for hearing the application and any objection; and

(b) notify the applicant and any objector of the time and place so fixed.

(2) At the hearing, the Commissioner must:

(a) hear the applicant and any objector if they are present and wish to be heard; and

(b) decide the matter”.

Application

[12] The application lodged on 14 June 2018 included a statutory declaration signed by Mr Brett Holmes, the Branch Secretary of the ANMF-NSW, setting out the grounds for seeking the exemption, stating that the ANMF-NSW Branch Council resolved to make the application and providing a copy of the resolution. The statutory declaration also declared that ANMF-NSW members had been notified of the making of the resolution, by means of email, SMS text message, and publication on the public page of the ANMF-NSW website within 14 days of the resolution, and advised that it would also be published in the next edition of the Branch journal, *The Lamp*, to be issued in July 2018.

[13] On 21 June 2018, the Commissioner arranged for the publication of a notice in the *Sydney Morning Herald* newspaper, setting out the details of the application, for the purpose of bringing the notice to the attention of ANMF-NSW members.

[14] The notice provided for any objectors to lodge notices of objections with the Fair Work Commission (FWC) and with the ROC no later than 28 days after the notice was published. No notices of objections have been lodged.

[15] On 19 July 2018, ANMF-NSW wrote to the ROC stating that (i) a notice was emailed to all members with a valid email address on 9 July 2018 advising that the July ‘Lamp Preview’ was available, and (ii) an addendum marked “*Lamp Addendum July 2018*” was sent by ordinary post to those members from whom ANMF-NSW did not hold a current valid email address.

[16] On 6 August 2018, after causing enquiries to be made with the FWC, I wrote to ANMF-NSW notifying them that no objections had been lodged with either the FWC or the ROC and advising them that the application was listed for a hearing on 21 August 2018. I also advised ANMF-NSW that the Commissioner had delegated his powers to me as the ROC's Executive

Director to determine the application, and I invited the ANMF-NSW to make any further submissions towards the application.

[17] On 17 August 2018, ANMF-NSW lodged written submissions in support of the section 183 application.

[18] In its submissions, ANMF-NSW outlined that the application to conduct its own collegiate election related only to the offices of Branch President, Branch Vice President, and six (6) Branch Executive Members, and that the collegiate election arose from new rules, certified by the FWC on 1 February 2018 in matter R2017/169 ([2018] FWCD 659), which provide that these offices will be elected by and from members of the Branch Council. The submissions outlined that this collegiate election would follow the direct election conducted by the AEC for the election of the offices of Branch Secretary, Branch Assistant Secretary, and twenty one (21) Branch Councillors.

[19] ANMF-NSW submitted that once the election conducted by the AEC is concluded a meeting of the newly elected office holders of Branch Secretary, Branch Assistant Secretary, and twenty one (21) Branch Councillors, would then elect the Branch President, Branch Vice President, and six (6) Branch Executive Members from among the Branch Councillors. ANMF-NSW's submissions are that it intends to conduct the collegiate election by secret ballot on the same day that the first Branch Council meeting is conducted, that being planned for 30 November 2018, and with an immediate result anticipated.

[20] ANMF-NSW further submitted that at its Branch Council meeting on 5 July 2018, it appointed Mr Neale Dawson to act as the Returning Officer for the collegiate election in the event that the exemption application is granted. ANMF-NSW submitted that Mr Dawson has had previous experience in conducting elections as a Returning Officer for a large State-registered employee association, with approval from the NSW Industrial Registrar, and that these factors will ensure that the collegiate election will be conducted appropriately.

[21] ANMF-NSW also submitted that Mr Dawson's appointment complies with section 143(b) of the RO Act in that he is not the holder of any office in, or an employee of, the organisation or a branch, section or division of the organisation.

[22] ANMF-NSW also submitted that if its application was granted, the collegiate election would be conducted in a manner that will afford members entitled to a vote an adequate opportunity to do so without intimidation in a secret ballot.

[23] ANMF-NSW also submitted that if its application was granted, the collegiate election would be conducted in accordance with its rules. I have examined the recent rule alterations made by the ANMF, which were certified by the FWC on 1 February 2018.

[24] On 21 August 2018, I conducted a hearing in Sydney at which I heard the application made by ANMF-NSW, who were represented by Ms Liz Robinson and Mr Warren Williams. Oral submissions were presented at the hearing and responses were given to questions that I raised with them during the hearing.

[25] On the basis of the material in the application and the additional material provided by the ANMF-NSW, including at the hearing, I am satisfied that the application has complied with section 183 of the RO Act, and with the RO Regulations.

[26] I am also satisfied that the rules of the ANMF comply with the requirements of the RO Act relating to the conduct of elections for office, and that if exempted from subsection 182(1), I am satisfied that ANMF-NSW will conduct the collegiate election under the rules of the ANMF, and in a manner which will afford members entitled to vote at the collegiate election an adequate opportunity of voting without intimidation.

[27] Under section 186(1) of the RO Act, I hereby grant the application made by ANMF-NSW and exempt it from subsection 182(1) of the RO Act in relation to a collegiate election for the offices of Branch President, Branch Vice President, and six (6) Branch Executive Members.



DELEGATE OF THE COMMISSIONER

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<PR351141>



IN REPLY PLEASE QUOTE:

BH: WW
 Ref: 18/0661
 14 June 2018

Mr Mark Bielecki
 Registered Organisations Commissioner
 Registered Organisations Commission
 GPO Box 2983
 MELBOURNE VIC 3001

Via email: regorgs@roc.gov.au.

Dear Commissioner,

Re: 2018 Elections: Branch President, Branch Vice President and Branch Executive Members (6)
Australian Nursing and Midwifery Federation NSW Branch

I, Brett Holmes, being the Branch Secretary for the Australian Nursing and Midwifery Federation New South Wales Branch (ANMF NSW Branch) seek the following:

The elections for the offices of Branch President, Branch Vice-President and Branch Executive Members (6) are due to be conducted following the declaration of the elections for Members of Branch Council.

The ANMF NSW is seeking that these be conducted as soon as possible upon assumption of office of the newly elected Council. We seek an exemption from elections being conducted by the AEC (AEC exemption) (sections 183, 184 and 186) for the election of the Branch President, Branch Vice President and six Branch Executive Members.

NSW	Branch President	1	Collegiate	Scheduled	Elected Branch Secretary, Branch Assistant Secretary and Council Rule 85B
NSW	Branch Vice President	1	Collegiate	Scheduled	Elected Branch Secretary, Branch Assistant Secretary and Council Rule 85B
NSW	Branch Executive	6	Collegiate	Scheduled	Elected Branch Secretary, Branch Assistant Secretary and Council Rule 85B

Address all correspondence to: 50 O'Dea Avenue Waterloo NSW 2017

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The rationale being that the financial members of the ANMF NSW Branch have voted for the declared Council and the rules state that the Council nominate and elect Branch President, Branch Vice President and Branch Executive.

The ANMF NSW Branch could schedule this to occur after the timetable and declaration date has been advised by the AEC for their election. A Branch Returning Officer would be appointed in accordance with Rule 86 of the ANMF Rules and this would allow continuity of the organisation democratic process and scheduled meetings.

No rule alterations are pending that will impact this election.

Please contact Warren Williams, Manager Administrative Services, in relation to this matter. His contact information is as follows:

Email	wwilliams@nswnma.asn.au
Direct phone	02 8595 1206
Postal Address	NSW Nurses and Midwives' Association 50 O'Dea Avenue Waterloo NSW 2017

The formal request for exemption is the subject of separate correspondence (attached).

Yours sincerely



BRETT HOLMES

Branch Secretary

Australian Nursing and Midwifery Federation NSW Branch

Cc Ms Annie Butler, Acting Federal Secretary,
Australian Nursing and Midwifery Federation



BH:TOG
IN REPLY PLEASE QUOTE: Ref:18/0661
14 June 2018

Mr Mark Bielecki
Registered Organisations Commissioner
The Registered Organisations Commission
GPO Box 2983
MELBOURNE VIC 3001

Via email: regorgs@roc.gov.au.

Dear Commissioner,

**Re: 2018 Elections: Branch President, Branch Vice President and Branch Executive Members (6)
Australian Nursing and Midwifery Federation NSW Branch**

This is an application by the Australian Nursing and Midwifery Federation New South Wales Branch (ANMF NSW Branch) for an exemption for the Branch to conduct its own elections for the above offices in accordance with s183 of the *Fair Work (Registered Organisations) Act 2009* ("the Act").

Grounds for seeking exemption:

The Branch's grounds for making this application in accordance with s183 to be exempted from s182(1) are as follows:

1. The *Australian Nursing and Midwifery Federation Rules* (145V) provide for the Branch Returning Officer to conduct these elections.

Specifically we submit that Rules 85.3, 85.4.3 and 85B are in accordance with s182(1) of the Act as they provide for the Branch to appoint a Returning Officer and conduct its own elections.

Relevant excerpts pertaining to NSW Branch elections are attached and marked as Annexure A.

2. The election for Branch Secretary, Branch Assistant Secretary and Branch Councillors (21) is conducted by the AEC from the whole of the Branch membership. The Councillors take office from the 30th November 2018 or from the date of the declaration of the election, whichever is the latter. The subsequent election for Branch President, Branch Vice-President and Branch Executive Members (6) is a collegiate election process with eligible nominees being those Branch Councillors (21) elected by the Branch membership and with a limited roll of voters consisting only of members of Branch Council.

To ensure good governance and a smooth transition, these office holders could be elected in the collegiate election at an ANMF NSW Branch Council meeting on 30th November 2018 by secret ballot with an almost immediate result.

Address all correspondence to: 50 O'Dea Avenue Waterloo NSW 2017

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- ANMF Branch Rule 85B provides that such an election shall be conducted by secret ballot (Rule 85B.10) and any person not present at the meeting may lodge a request with the Returning Officer for an absentee vote (Rule 85B.13).
3. Any other ground the Commission deems appropriate.

Other requirements

In accordance with Regulation 133(1)(c) a declaration signed by a member of the Branch Council (Committee of Management) verifying the facts set out in this application is attached and marked as Annexure B.

In accordance with s 183(2)(a) and (b) and Regulation 133(2):

- the Branch confirms that Branch Council has resolved to make this application. This resolution is attached and marked as Annexure C.
- members have been notified of the making of this resolution by publication under the title of "*Important notice for members*" on the public page of the website www.nswnma.asn.au on 12 June 2018; and
- on Tuesday 12 June 2018, all members with a valid email address were emailed a copy of the Branch resolution and those members without a valid email but with a mobile phone were sent a link to the notice on the website; and
- the resolution shall also be published in the July 2018 edition of the journal the Lamp. Copies of member communications are attached and marked as Annexure D.

We note that a draft of these materials was provided to ROC and a meeting held prior to lodgement to ensure compliance with requirements.

For further information please do not hesitate to contact Officers Tony O'Grady on telephone 02 8595 2118 or Liz Robinson on 8595 1256.

Thank you for your consideration of the Branch's application.

Yours sincerely



BRETT HOLMES

Branch Secretary

Australian Nursing and Midwifery Federation NSW Branch

Cc Ms Annie Butler, Acting Federal Secretary,
Australian Nursing and Midwifery Federation

85 - ELECTIONS

- 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 and New South Wales Branches shall be conducted between the 1st 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.
- 85.1.2 Elections for the offices of Branch President, Branch Vice President and Branch Councillor in the Queensland Branch shall be conducted between the 1st day of September and the 30th day of October every fourth year commencing at the elections to be conducted in the year 2012, provided that the Returning Officer may call for nominations prior to the first of September in the year of elections.
- 85.1.3 Elections for the Branch Executive members of the Queensland Branch shall be conducted every fourth year commencing at the elections in the year 2012 in accordance with Rule 85A.
- 85.1.4 Elections for the offices of Branch Councillors (21) in the New South Wales Branch shall be conducted between the 1st day of September and the 30th day of October every fourth year commencing at the elections to be conducted in the year 2018, provided that the Returning Officer may call for nominations prior to the first of September in the year of elections.
- 85.1.5 Elections for the Branch President, Branch Vice President and Branch Executive members of the New South Wales Branch shall be conducted every fourth year commencing at the elections in the year 2018 in accordance with Rule 85B.
- 85.2 The election for the position of Branch Secretary and Assistant Branch Secretary (if any) shall be conducted between the first day of September and the 30th day of October every fourth year, provided that the Returning Officer may call for nominations prior to the first of September in the year of such election.
- Elections for the positions of Branch Secretary and Assistant Branch Secretary of the New South Wales Branch shall be held every four years commencing in the year 2018.
- 85.3 Elections in a Branch shall be conducted by the Returning Officer appointed by the Branch Council or the Branch Council may request the Registered Organisations Commissioner make the necessary arrangements to conduct such elections in accordance with the provisions of the Fair Work (Registered Organisations) Act.
- 85.4.1 Elections, other than elections for the Executive Members of the Queensland Branch Council which shall be conducted in accordance with sub-rule 85.4.2, shall be conducted by secret postal ballot of financial members and the roll of voters for any election to be conducted pursuant to this rule is to be closed seven days before the day on which nominations are open.
- 85.4.2 Executive Members of the Queensland Branch Council shall be elected in accordance with the provisions of Rule 85A by all of the members of the Council from the Branch Councillors.
- 85.4.3 The Branch President, Branch Vice President and Branch Executive Members of the New South Wales Branch Council shall be elected in accordance with the provisions of Rule 85B by all of the members of the Council from the Branch Councillors.

85A – SPECIAL RULE – COLLEGIATE ELECTIONS FOR QUEENSLAND BRANCH EXECUTIVE MEMBERS

- 85.5 In elections to fill offices in accordance with these Rules, each candidate may, not later than five working days later than the time fixed in accordance with these Rules for the close of nominations, submit to the Returning Officer a statement (together with a photograph of the candidate if desired) in support of the candidature. Such statement shall not exceed two hundred words. The Returning Officer shall reject any statement or photograph which does not comply with this Rule and may reject any statement or photograph the publication of which may be defamatory or in breach of the law. A candidate whose statement or photograph is rejected shall be given not more than ten days from the close of nominations to supply a replacement statement or photograph that complies with this Rule and remedies the defect. The Returning Officer shall arrange the printing of the statement and photograph in support of each candidate.

The Returning Officer shall include with the ballot paper delivered to each voter a copy of the statement and photograph printed in relation to each candidate. Where no statement or photograph has been submitted to the Returning Officer by a candidate the Returning Officer shall indicate this on a separate sheet which shall be delivered with each ballot paper.

- 85.6 Notwithstanding anything elsewhere contained in these rules, where a person has nominated for more than one office on the Branch Council, the provisions of Standard Branch Rule 65.4 and 65.5 shall apply.

85A – SPECIAL RULE – COLLEGIATE ELECTIONS FOR QUEENSLAND BRANCH EXECUTIVE MEMBERS

- 85A.1 Notwithstanding any other provisions of these rules this rule applies to the elections for the Queensland Branch Executive Members.
- 85A.2 The Branch Executive Members of the Queensland Branch Council shall be elected by the members of the Queensland Branch Council (for this rule the Electoral College”) from the Branch Councillors.
- 85A.3 The Returning Officer for the election to be conducted pursuant to this rule shall be the Returning Officer for the Queensland Branch appointed in accordance with Sub-rule 85.3.
- 85A.4 The Returning Officer shall call for nominations from among eligible members of the Electoral College by written notice to each such member.
- 85A.5 Nominations shall be in writing, signed by the candidate and seconded by another member of the Electoral College and shall be delivered to the Returning Officer prior to the commencement of the first meeting of the Queensland Branch Council next following the election of members of the Electoral College (for the purposes of this rule the “Meeting”).
- 85A.6 If the Returning Officer finds that a nomination is defective, the Returning officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the person the opportunity to remedying the defect.
- 85A.7 The Returning Officer shall notify each member of the Electoral College of the opening and closing time of the ballot which shall be conducted at the Meeting.
- 85A.8 If at the close of nominations, only the required number of nominations have been received the Returning Officer shall declare those candidates elected.

85B – SPECIAL RULE – COLLEGIATE ELECTIONS FOR NEW SOUTH WALES BRANCH PRESIDENT, BRANCH VICE PRESIDENT AND BRANCH EXECUTIVE MEMBERS

- 85A.9 If there are more than the required number of candidates the Returning Officer shall conduct at the Meeting an election for that office by secret ballot of the Electoral College and by means of a “first past the post system”.
- 85A.10 The Returning officer shall initial and hand to each member of the Electoral College a ballot paper.
- 85A.11 Each member of the Electoral College shall cast a vote by completing the ballot paper by placing an “x” or other mark in the square against the name of the candidate the voter is voting for and by placing the completed ballot paper in the ballot box in the control of the Returning officer.
- 85A.12 Any member of the Electoral College who shall not be present at the Meeting at which the ballot is to be held may lodge a request with the Returning Officer for an absentee vote, together with an address where such member can receive communications, and, if any member has done so, the Returning officer shall not declare the result of the ballot until such member has been given reasonable opportunity to vote.
- 85A.13 The candidate, or candidates, securing the highest number of votes shall be declared elected to the office of Branch Executive Member.
- 85A.14 The Returning Officer shall declare the result to the Electoral College as soon as the count is completed and shall provide a written report to the Queensland Branch Council in relation to the declaration.
- 85A.15 The candidate, or candidates, elected shall take office upon the declaration by the Returning Officer of the result of the election and each shall hold office subject to these Rules until their successors are elected.

85B – SPECIAL RULE – COLLEGIATE ELECTIONS FOR NEW SOUTH WALES BRANCH PRESIDENT, BRANCH VICE PRESIDENT AND BRANCH EXECUTIVE MEMBERS

- 85B.1 Notwithstanding any other provisions of these rules, this rule applies to the elections for the New South Wales Branch President, Branch Vice President and Branch Executive Members.
- 85B.2 The New South Wales Branch President, Vice President and Executive Members (6) shall be elected by the members of the New South Wales Branch Council (for this rule the “Electoral College”) from the Branch Councillors.
- 85B.3 The Returning Officer for the election to be conducted pursuant to this rule shall be the Returning Officer for the New South Wales Branch appointed in accordance with Sub-rule 85.3.
- 85B.4 The Returning Officer shall call for nominations from among eligible members of the Electoral College by written notice to each such member.
- 85B.5 Nominations shall be in writing, signed by the candidate and seconded by another member of the Electoral College and shall be delivered to the Returning Officer prior to the commencement of the first meeting of the New South Wales Branch Council next following the election of members of the Electoral College (for the purposes of this rule the “Meeting”).

86 - RETURNING OFFICER

- 85D.6 A member of the Electoral College may only nominate for one position.
- 85B.7 If the Returning Officer finds that a nomination is defective, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the person the opportunity to remedying the defect.
- 85B.8 The Returning Officer shall notify each member of the Electoral College of the opening and closing time of the ballot which shall be conducted at the Meeting.
- 85B.9 If at the close of nominations, only the required number of nominations have been received the Returning Officer shall declare those candidates elected.
- 85B.10 If there are more than the required number of candidates the Returning Officer shall conduct at the Meeting an election for that office by secret ballot of the Electoral College and by means of a "first past the post system".
- 85B.11 The Returning Officer shall initial and hand to each member of the Electoral College a ballot paper.
- 85B.12 Each member of the Electoral College shall cast a vote by completing the ballot paper by placing an "x" or other mark in the square against the name of the candidate the voter is voting for and by placing the completed ballot paper in the ballot box in the control of the Returning Officer.
- 85B.13 Any member of the Electoral College who shall not be present at the Meeting at which the ballot is to be held may lodge a request with the Returning Officer for an absentee vote, together with an address where such member can receive communications, and, if any member has done so, the Returning Officer shall not declare the result of the ballot until such member has been given reasonable opportunity to vote.
- 85B.14 The candidate, or candidates, securing the highest number of votes shall be declared elected.
- 85B.15 The Returning Officer shall declare the result to the Electoral College as soon as the count is completed and shall provide a written report to the New South Wales Branch Council in relation to the declaration.
- 85B.16 The candidate, or candidates, elected shall take office upon the declaration by the Returning Officer of the result of the election and each shall hold office subject to these Rules until their successors are elected.

86 - RETURNING OFFICER

- 86.1 The Branch Returning Officer shall conduct any election for any office in the Branch or any ballot for a plebiscite in accordance with the provisions of Rule 49 of the Federal Rules. The Branch Returning Officer shall not be a candidate for any election or the subject of any plebiscite conducted by him or her, nor shall he or she be the holder of any office in, or an employee of, the Federation, or of a Branch, Section or Division of the Federation.

Commonwealth of Australia
 STATUTORY DECLARATION
Statutory Declarations Act 1959

1 Insert the name, address and occupation of person making the declaration

I,¹ Brett Holmes, Branch Secretary of the Australian Nursing and Midwifery Federation New South Wales Branch (ANMF NSW Branch) of 50 O'Dea Avenue, Waterloo NSW 2017 make the following declaration under the *Statutory Declarations Act 1959*:

2 Set out matter declared to in numbered paragraphs

² In accordance with s183 of the *Fair Work (Registered Organisations) Act 2009* and Regulation 133 (1)(c) of the *Fair Work Registered Organisations Regulations* I verify the facts set out in the application to the Registered Organisations Commission for the Branch to conduct its own elections for office.

1. The *Australian Nursing and Midwifery Federation Rules* (145V) provide for the Branch Returning Officer to conduct these elections.

Specifically we submit that Rules 85.3, 85.4.3 and 85B are in accordance with s182(1) of the Act as they provide for the Branch to appoint a Returning Officer as per Rule 86 and the Act definition to conduct its own elections.

2. The election for Branch Secretary, Branch Assistant Secretary and Members of Branch Council (21) is conducted by the AEC from the whole of the Branch membership. The Councillors take office from 30th November 2018 or from the date of the declaration of the election, whichever is the latter. The subsequent election for Branch President, Branch Vice-President and Branch Executive Members (6) is a collegiate election process with eligible nominees being those Members of Branch Council (21) elected by the Branch membership and with a limited roll of voters consisting only of members of Branch Council.

To ensure good governance and a smooth transition, these office holders could be elected in the collegiate election at an ANMF NSW Branch Council meeting on 30th November 2018 by secret ballot with an almost immediate result.

3. Any other ground the Commission deems appropriate.
4. In accordance with s 183(2)(a) and (b) and Regulation 133(2):
 - the Branch confirms that the Branch Council has resolved to make this application.
 - that members have been notified of the making of this resolution by:
 - email and SMS, and
 - publication on the public page of the website www.nswnma.asn.au within 14 days of the resolution, and
 - the next edition of The Lamp to be issued to members in July 2018.
5. The Branch is aware of our obligations in accordance with s199 of the Act with respect to preserving ballot papers.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

3 Signature of person making the declaration

3

Brett Holmes

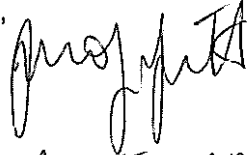
4 Place
5 Day
6 Month and year

Declared at ⁴ Waterloo on ⁵ 13 day of ⁶ June 2018

7 Signature of person before whom the declaration is made (see over)

7

Before me,



8 Full name, qualification and address of person before whom the declaration is made (in printed letters)

8

JOANNE MOFFITT
SOLICITOR

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

A statutory declaration under the *Statutory Declarations Act 1959* may be made before—

(1) a person who is currently licensed or registered under a law to practise in one of the following occupations:

Chiropractor	Dentist	Legal practitioner
Medical practitioner	Nurse	Optometrist
Patent attorney	Pharmacist	Physiotherapist
Psychologist	Trade marks attorney	Veterinary surgeon

(2) a person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) a person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the *Consular Fees Act 1955*)

Bailiff

Bank officer with 5 or more continuous years of service

Building society officer with 5 or more years of continuous service

Chief executive officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit union officer with 5 or more years of continuous service

Employee of the Australian Trade Commission who is:

(a) in a country or place outside Australia; and

(b) authorised under paragraph 3 (d) of the *Consular Fees Act 1955*; and

(c) exercising his or her function in that place

Employee of the Commonwealth who is:

(a) in a country or place outside Australia; and

(b) authorised under paragraph 3 (c) of the *Consular Fees Act 1955*; and

(c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the *Marriage Act 1961*

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

Member of the Australian Defence Force who is:

(a) an officer; or

(b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years of continuous service; or

(c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

(a) the Parliament of the Commonwealth; or

(b) the Parliament of a State; or

(c) a Territory legislature; or

(d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the *Marriage Act 1961*

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

(a) the Commonwealth or a Commonwealth authority; or

(b) a State or Territory or a State or Territory authority; or

(c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

(a) the Commonwealth or a Commonwealth authority; or

(b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution

ANMF NSW BRANCH RESOLUTION 5th JUNE 2018

“This meeting of ANMF NSW Branch Council instructs the Branch:

1. to proceed as required with the election for Branch Secretary, Branch Assistant Secretary and Branch Councillors (21) from the whole of the membership through the AEC process; and
2. to seek an exemption from the Registered Organisations Commission for the Branch Returning Officer to conduct collegiate elections for the positions of Branch President, Branch Vice President and Branch Executive Members (6) in accordance with Rules 85.3, 85.4.3 and 85B and s183 of the *Fair Work (Registered Organisations) Act 2009* (“the Act”); and
3. In the event that the Registered Organisations Commission does not grant the Branch’s exemption application, then Council acknowledge that the AEC will conduct the elections in accordance with the Act.”



Important notice for members

ANPP NSW Branch Elections for the offices of Branch President, Branch Vice President and Branch Executive Members shall be conducted in November this year.

[Learn More](#)



A message from Brett Holmes

Every month The Lamp carries an editorial by Brett Holmes, General Secretary of the NSWNSA.

[Learn More](#)

Important Notice for Members

ANMF NSW Branch Elections: President, Vice President, Executive Members

Elections for the offices of Branch President, Branch Vice President and Branch Executive Members (6) shall be conducted in November this year. As these positions shall be elected by and from Branch Council [already elected by the full membership in an election conducted by the Australian Electoral Commission (AEC)], the ANMF NSW Branch is seeking an exemption from the Registered Organisations Commission (ROC) to allow the Branch Returning Officer to conduct the elections. This is in accordance with the provisions of the Fair Work (Registered Organisations) Act 2009 (the Act).

On 5 June 2018 Branch Council passed the following resolution:

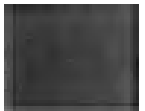
This meeting of ANMF NSW Branch Council instructs the Branch:

- 1. To proceed as required with the election for Branch Secretary, Assistant Branch Secretary and Members of Branch Council (21) from the whole of the membership through the AEC process; and*
- 2. To seek an exemption pursuant to s186 Fair Work (Registered Organisations) Act 2009 ("the Act") for the Branch Returning Officer rather than the AEC to conduct collegiate elections for the positions of Branch President, Branch Vice-President and Branch Executive Members (6) in accordance with Rules 85.3, 85.4.3 and 85B and s183 of the Act; and*
- 3. In the event that the Registered Organisations Commission does not grant the Branch's exemption application, then Council accepts that the AEC will conduct the elections."*

Under the Act, the Branch is required to notify all members of the above resolution. This notice will also be published in the July edition of the journal "The Lamp".

Any queries should be directed to Tony O'Grady, Manager Projects and Compliance, on 02 8595 1234 (Metro) or 1300 367 962 (non-metro).

Help us!



Text Message
Yesterday 17:11 *i.e. 12/6/2018*

W. Grady
13/6/18

Important notice for members
re ANMF NSW Branch
Elections: President, V
President, Exec Members.
Please follow link for full
details:

Tap to Load Preview

bit.ly





Australian Government
Registered Organisations Commission

Fair Work (Registered Organisations) Act 2009

**Australian Nursing and Midwifery Federation –
New South Wales Branch**

SECTION 183 - NOTICE OF APPLICATION FOR ORGANISATION OR BRANCH TO CONDUCT ITS ELECTIONS FOR OFFICE

Notice is given, in accordance with regulation 134 of the *Fair Work (Registered Organisations) Regulations 2009* (the Regulations), that on 14 June 2018 an application was made to the Commissioner of the Registered Organisations Commission (the ROC), pursuant to section 183 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act), by the New South Wales Branch of the Australian Nursing and Midwifery Federation (ANMF NSW) to be exempted from section 182(1) of the RO Act in relation to a collegiate election for the offices of Branch President, Branch Vice President, and six (6) Branch Executive Members. A copy of the application has been published on the ROC website at www.roc.gov.au/find-a-registered-organisation/anmf.

Regulation 135 of the Regulations provides that for subsection 184(1) of the RO Act, an objection may be made by a member of the ANMF or branch of the ANMF, by lodging a notice of objection with the Fair Work Commission (FWC) no later than 28 days after the publication of this notice.

A notice of objection must also comply with Regulation 14 of the Regulations.

Any notice of objection must be lodged with the FWC at Level 10, 80 William Street, Sydney NSW 2000 (Fax: (02) 9380 6990 or Email: ros@fwc.gov.au) no later than 28 days after the date of this publication, **and** a copy of the notice of objection must also be served, within 7 days of lodging the notice of objection, on the ANMF NSW, whose address for service is 50 O’Dea Avenue, Waterloo NSW 2017.

Objectors are requested to provide a copy of their objection to the ROC at Level 13, 175 Liverpool St, Sydney NSW 2000 (Email: regorgs@roc.gov.au).

ANMF NSW may, within 14 days after being served with a notice of objection, lodge with the ROC Commissioner a written statement in reply and must, within 7 days of lodging a written statement, serve a copy of it on the objector.

Mark Bielecki
Commissioner
Registered Organisations Commission