

## **MOUTEVELIS, Michael**

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**From:** industrial.elections@fwa.gov.au  
**Sent:** Tuesday, 21 June 2011 4:42 PM  
**To:** VALE, David  
**Subject:** FW: FOR ACTION: Post election Report for ARTBIU NSW E2011/2548 - Delegate to National Council for NSW Rail Operations Division [SEC=UNCLASSIFIED]  
**Attachments:** RO Report E2011-2548.pdf; Uncontested Declaration Report.pdf

**MARY JO CARNEY**  
Executive Co-ordinator  
Tribunal Services and Organisations

**Fair Work Australia**  
Tel: 03 8661 7825  
Fax: 03 9655 0401  
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**From:** Keith Eaton [<mailto:Keith.Eaton@aec.gov.au>]  
**Sent:** Tuesday, 21 June 2011 1:25 PM  
**To:** 'bnavva@rtbu-nat.asn.au' ([bnavva@rtbu-nat.asn.au](mailto:bnavva@rtbu-nat.asn.au))  
**Cc:** 'Helen Byron' ([hbyron@rtbu-nsw.asn.au](mailto:hbyron@rtbu-nsw.asn.au)); Lee Jones; Industrial Elections; [industrial.elections@fwa.gov.au](mailto:industrial.elections@fwa.gov.au)  
**Subject:** FOR ACTION: Post election Report for ARTBIU NSW E2011/2548 - Delegate to National Council for NSW Rail Operations Division [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Robert Nanva  
National Secretary



### **Post-Election Report for : Australian Rail, Tram and Bus Industry Union – Delegate to National Council for NSW Rail Operations Division – E2011/2548**

Dear Mr Nanva,

I refer to the above election for your organisation.

Section 197(1) of the Fair Work (Registered Organisations) Act 2009 ("the Act") requires the AEC to provide a written report on the conduct of the election to Fair Work Australia and to the organisation or branch for whom the election was conducted. A copy of the report in relation to this election is attached.

Section 198 of the Act requires that if an organisation or branch is given a post election report under Section 197 that identifies a rule that was difficult to interpret or apply, the organisation or branch must, within 30 days, give a written response to the AEC on that aspect of the report. The response must specify whether the organisation or branch intends to take any action in relation to the rule, and if so, what action it intends to take.

If the attached Report identifies a rule that was difficult to interpret or apply, you should forward your response to the AEC by email to '[industrial.elections@aec.gov.au](mailto:industrial.elections@aec.gov.au)' within thirty days of the date of the report.

Section 198 and the regulations also require an organisation to make the post election report and the organisation's response to the report (if applicable) available to members.

Further, Regulation 141(4) of the Fair Work (Registered Organisations) Regulations requires an organisation or branch to publish a notice on its web site advising members that a copy of the post election report is available upon request. If a website is not available, publishing a notice in a journal or newsletter would be considered appropriate.

Please contact me if you wish to clarify any aspect of this report.

Thanks

Regards Keith

**Keith Eaton | Industrial Elections Branch**  
State Office | New South Wales  
Australian Electoral Commission  
T: 02 9375 6361 | M: 0412 269 720 | F: 02 9375 6336

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Fair Work (Registered Organisations) Act 2009

## POST ELECTION REPORT

Australian Rail, Tram & Bus Industry Union

### ELECTION/S COVERED IN THIS REPORT

Election Decision No/s:

E2011/2548

Contact details: Mr Robert Nanva  
National Secretary  
Australian Rail, Tram and Bus  
Industry Union  
83-89 Renwick Street  
REDFURN NSW 2016

Email: [rtbu@rtbu-nat.asn.au](mailto:rtbu@rtbu-nat.asn.au)  
Tel: 02 9310 3966

FWA contact officer: David Vale

Email: [david.vale@fwa.gov.au](mailto:david.vale@fwa.gov.au)  
Tel: 02 8374 6509

### RULES

Rules used for the election:	139V: - incorporates alterations certified on 8/4/2009 in R2009/246 & R2009/247
Rules difficult to apply/interpret:	None
Model Rule reference (if any):	N/A

### ROLL OF VOTERS

As there were no contested office, no roll of voters was required.

### IRREGULARITIES

Details of written allegations of irregularities, and action taken by AEC: *Nil*

Other irregularities identified, and action taken: *N/A*

### ATTACHMENTS

1) Declaration of Results for Uncontested Office

Keith Eaton  
Returning Officer  
17 June 2011

**Australian Rail, Tram and Bus Industry Union  
Vacancy ARTBIU Rail Ops NSW Br**

**DECLARATION OF RESULTS FOR UNCONTESTED OFFICES**

Results of the election for the following offices conducted in accordance with the provisions of the Workplace Relations Act 1996 and the rules of the organisation.

E2011/2548

**National Offices**

**Delegate to National Council from NSW Branch Rail Operations Division**

Candidate

GALE, Bruce Charles

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

Keith Eaton  
Returning Officer

26 May 2011



FAIR WORK  
AUSTRALIA

23 March 2011

Mr Allan Barden  
Assistant National Secretary  
Australian Rail, Tram and Bus Industry Union  
83 - 89 Renwick Street  
REDFERN NSW 2016

Dear Mr Barden

**Re: Arrangements for the conduct of an Election  
(E2011/2548)**

A copy of the decision in relation to the above matter is enclosed.

Fair Work Australia is making arrangements, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, with the Electoral Commissioner for the conduct of the subject election by a member of staff of the Australian Electoral Commission, who will contact you in the near future about the election.

Yours sincerely

David Vale  
Fair Work Australia



FAIR WORK  
AUSTRALIA

## DECISION

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

**Australian Rail, Tram and Bus Industry Union**  
(E2011/2548)

T. NASSIOS

SYDNEY, 23 MARCH 2011

*Arrangement for conduct of election.*

[1] On 17 March 2011 the Australian Rail, Tram and Bus Industry Union lodged with Fair Work Australia the prescribed information in relation to an election.

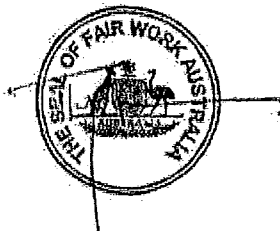
[2] On 18 March 2011 the above mentioned organisation lodged amended prescribed information in relation to an election for the following office:

### National Office

NSW Rail Operations Division

National Divisional Delegate from Branch to National Council (1)

[3] I am satisfied that an election for the abovenamed office 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.



DELEGATE OF THE GENERAL MANAGER  
FAIR WORK AUSTRALIA

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## **VALE, David**

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**From:** VALE, David  
**Sent:** Wednesday, 23 March 2011 2:49 PM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2011/2548  
**Attachments:** E2011\_2548\_ARTBIU letter to AEC\_23032011.doc; E2011\_2548\_Signed Decision\_23032011.doc

Dear AEC,

Please find attached a copy of the Decision for the upcoming election of the Australian Rail, Tram & Bus Industry Union (E2011/2548).

Yours sincerely

**DAVID VALE**  
Manager, Organisations - NSW

**Fair Work Australia**  
Tel: 02 8374 6509  
Fax: 02 9380 6990

[david.vale@fwa.gov.au](mailto:david.vale@fwa.gov.au)

Level 8, Terrace Tower  
80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)



FAIR WORK  
AUSTRALIA

23 March 2011

Electoral Commissioner Through  
Australian Electoral Officer (industrial.elections@aec.gov.au)

Under subsection 189 of the Fair Work (Registered Organisations) Act 2009, please arrange for the conduct of the following election by the Australian Electoral Commission:

**E No 2011/2548**

**RE: AUSTRALIAN RAIL, TRAM & BUS INDUSTRY UNION**

Positions:

See Decision

Contact: Australian Rail, Tram & Bus Industry Union  
Allan Barden, Assistant National Secretary, National Office

Relevant Information: Casual vacancy.

Phone: (02) 9310 3966

A copy of the decision is enclosed.

I further request that you arrange for this office to be notified that arrangements for the conduct of this election have been made, by email transmission at [industrial.elections@air.gov.au](mailto:industrial.elections@air.gov.au)

David Vale  
Fair Work Australia



## **MOLONEY, Carolyn**

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**From:** MOLONEY, Carolyn  
**Sent:** Friday, 18 March 2011 4:24 PM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2011/2548 Amended Prescribed Information  
**Attachments:** 139V ARTBIU R2011\_6\_16022011.pdf; Amended ARTBIU prescribed information.pdf

Dear AEC

Please find attached the Amended prescribed information and a copy of the current rulebook for an election of the Australian Rail, Tram and Bus Industry Union (E2011/2548).

Kind regards,

**CAROLYN MOLONEY**  
RIA Team Administrative Officer

**Fair Work Australia**  
Tel: 02 8374 6620  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)

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**From:** MOLONEY, Carolyn  
**Sent:** Thursday, 17 March 2011 10:54 AM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2011/2548

Dear AEC

Please find attached the prescribed information and a copy of the current rulebook for an upcoming election of the Australian Rail, Tram and Bus Industry Union. (E2011/2548).

Kind regards,

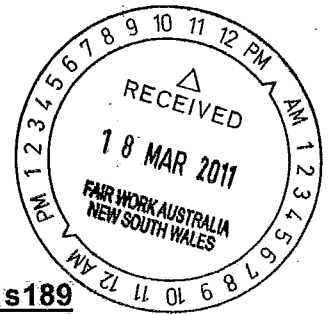
**CAROLYN MOLONEY**  
RIA Team Administrative Officer

**Fair Work Australia**  
Tel: 02 8374 6620  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

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East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)

E2011/2548



**STATEMENT/ APPLICATION FOR ELECTION UNDER s189**

I, Allan Barden, Assistant National Secretary of the Australian Rail, Tram and Bus Industry Union, request the General Manager, FWA, to arrange for the conduct of an election by the AEC. The prescribed information in accordance with regulation 138 is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 and is set out below.

1. The position for which an election is required is 1 Delegate to the National Council for the NSW Rail Operations Division.

2. The reason for the election is that an incumbent to the aforementioned position has resigned (see attached email), and in accordance with Rule 78 (2) - Casual Vacancy of the Australian Rail, Tram and Bus Industry Union Federally registered Rules, an election is required for this now vacant position. Rule 78(2) states:-

***" Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a four year term of Office is more than twenty four months or where the unexpired portion of a two year term of Office is more than 12 months, a ballot shall be held to fill the Office in accordance with the provisions of this Part and the person or persons duly elected shall take office on and from the date of the declaration of the ballot"***

3. The NSW Branch Rail Operations Division has 4 delegates to National Council based on the criteria of 1 Delegate for each 1,000 Members or part thereof of each Division.

4. Eligibility and Electorate

Whole of the membership of the New South Wales Branch Rail Operations Division.

5. The date and time of the beginning and end of the period in which nominations of candidates may be made for a casual vacancy is not defined in Rule 78(2) – Casual Vacancies, however the criteria for General Elections is set out in Rule 70 ( see attached rule 70.)

6. The kind of voting system to be used is an optional preferential as outlined in the following rule 105.

**105 - METHOD OF VOTING**

**(1) Except as provided in Sub-Rule 105(2), the method of voting for Branch Offices in New South Wales shall be optional preferential.**

**Accordingly, voters shall express their preference by placing numbers against the names of the candidates on the ballot paper with the number one indicating the highest preference, the number two indicating the second highest preference and so on.**


**A voter has the option of whether to place a number against the name of each candidate or whether to place a number against the name or names of only some of them.**

**A mark other than a number shall be regarded as a valid vote provided that the Returning Officer is of the view that the ballot paper clearly indicates the voter's preference.**

**(2) The method of voting for Branch Offices which represent members within the Branch Tram and Bus Division only shall be first past the post**

I am an officer of the organisation authorised to make and sign the above statement.

Signed

A handwritten signature in black ink, appearing to read "Bender".

Dated

18 - MARCH - 2011

## 71 - ELECTION TIMETABLE AND ASSUMPTION OF OFFICE

- (14) An appeal right shall be exercised within fourteen days of receipt of written advice of the decision of the Executive by notice in writing to the National Secretary or the Branch Secretary, as the case may be, or, where the National Secretary or the Branch Secretary is the person charged, to the National President or the Branch President, as the case may be. In hearing such appeal, the Council shall follow the same proceedings and accord the Office Bearer the same rights as are provided for in this Rule in relation to the hearing of the matter by the Executive.
- (15) A Branch Office Bearer shall have a further right of appeal from the Branch Council to the National Executive, whose decision shall be final.

### PART VIII - ELECTIONS

#### **70 - ELECTIONS FOR OFFICES**

Elections for all Offices within the Union shall take place in accordance with the provisions of this Part.

#### **71 - ELECTION TIMETABLE AND ASSUMPTION OF OFFICE**

- (1) Except as provided in Sub-Rule 71(3), the timetable for elections within the Union, other than elections to fill a casual vacancy, shall be as follows:-
  - (i) nominations shall open at 9.00am on the first Monday in September of an election year and shall close at 5.00pm on the fourth Monday in September in that year.
  - (ii) where a ballot is necessary, the ballot shall commence at 9.00am on the first Monday in November of an election year and shall conclude at 5.00pm on the fourth Monday in November of that year.

Provided that the National Executive may, in the case of elections for National Offices, and a Branch Council may, in the case of elections for Branch Offices, vary this timetable in exceptional circumstances.

- (2) The ballot shall be declared as soon as practicable after the counting of the votes. Successful candidates shall take office on and from the declaration of the ballot.
- (3) Where an Office is to be filled through a collegiate election under these Rules, the election shall take place at the first meeting of the electoral college following elections for the members of the college. The ballot shall be declared at that meeting and the successful candidate shall take office forthwith.
- (4) For the election of the President, Vice President and Junior Vice President of the Tram and Bus Division of the Queensland Branch, the nominations will be called one week from the declaration of the poll for Sub-Divisional Representatives. Nominations will close one week after they are called. One week will be allowed for withdrawal of nominations and a ballot will occur within fourteen (14) days after withdrawal of nominations closing.

### 72 - RETURNING OFFICERS

- (1) The National Council shall appoint a National Returning Officer who shall, subject to any statutory provision regarding the conduct of elections, conduct all National elections and ballots.
- (2) The National Council may appoint an Assistant Returning Officer or Officers to assist the National Returning Officer.
- (3) A Branch Council shall appoint a Branch Returning Officer who shall, subject to any statutory provision regarding the conduct of elections, conduct all Branch elections and ballots.
- (4) A Branch Council shall appoint an Assistant Branch Returning Officer or Officers to assist the Branch Returning Officer.
- (5) The National and the Branch Returning Officers and Assistant Returning Officers shall not be Office Bearers within or employees of the Union.

### 73 - ELECTION PROCEDURES

Except where otherwise provided in these Rules, elections within the Union shall be conducted in accordance with the following procedures:-

- (i) The Returning Officer shall call for nominations at least three weeks before the date on which nominations open by a notice published in a union journal or by circulars addressed to members or by the insertion of an advertisement in a newspaper or newspapers circulating throughout the electorate. Such notices shall specify the date on which nominations will open and will close, the dates upon which the ballot will open and will close, the manner in which nominations can be made and the eligibility requirements for nomination. Where the office or offices for which elections are held are paid positions, the notice shall specify the location, duties and responsibilities of the Office.
- (ii) Nominations shall be in writing and shall be signed by the nominee.
- (iii) If the Returning Officer finds that a nomination is defective, he/she shall, before rejecting the nomination, notify the person concerned of the defect and where it is practicable to do so, give him or her the opportunity of remedying the defect within not less than seven days but not more than ten days after he or she has been notified.
- (iv) A member nominating for any office may withdraw his/her nomination by advising the Returning Officer in writing at any time after the opening date for receipt of nominations but not later than ten days after the closing date for the receipt of nominations.
- (v) A candidate in any election shall be entitled to appoint, by notice in writing to the Returning Officer, another person to act at his/her own expense as a scrutineer on his/her behalf. Such scrutineer shall be entitled to be present at all stages of the ballot and may draw the attention of the Returning Officer to any complaint which he/she has regarding the ballot, but he/she shall not interfere in the counting of the ballot or handle any ballot paper or ballot envelope without the permission of the Returning Officer. The Returning Officer shall, if requested by any scrutineer, inform the scrutineer of the times and places at which the various stages of the ballot will be conducted.

- (vi) Except in the case of Offices which represent members in the Tram and Bus Division only, a candidate in an election shall be entitled to support his/her candidature in National and Branch Journals and may submit articles for this purpose.
- (vii) If the number of nominations does not exceed the number of vacancies, the Returning Officer shall declare the nominee(s) duly elected. Nominees declared duly elected shall not, however, take Office until the day following the date on which a ballot would have concluded pursuant to the provisions of Rule 71.
- (viii) If the number of nominations exceeds the number of vacancies, a secret postal ballot of all financial members within the relevant electorate, shall be held.
- (ix) Where a ballot is necessary, the Returning Officer shall cause to be printed ballot papers which are oblong in shape and show the name, classification and work location of each candidate. All ballot papers shall be printed bearing the signature of the Returning Officer imposed on a facsimile of the Union's Seal. No vote shall be valid unless the ballot paper bears the signature of the Returning Officer imposed upon a facsimile of the Union's Seal. The names of the candidates shall appear on the ballot paper as decided by lot. One ballot paper may contain provision for voting in respect of more than one election.
- (x) The Returning Officer shall also cause to be printed declaration envelopes marked "Ballot Paper" and other prepaid envelopes bearing the address of the Returning Officer. Both the declaration envelopes and the prepaid envelopes shall comply with the forms prescribed by the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003. In addition, the removable flap or label shall also have printed on it a number corresponding to a number appearing opposite the financial member's name on the list of voters.
- (xi) The Returning Officer shall prepare or cause to be prepared a voters' roll containing the name and last known postal address including postcode of each and every member within the electorate, who is a financial member on the day the roll of voters closes. The voters' roll shall close seven (7) days before the date the nominations open. The closing of the roll of voters is not to be taken to prevent the correction of errors in the roll after that day up to but not extending beyond a date seven days prior to the commencing date for the conduct of the ballot.
- (xii) The Returning Officer shall keep a record of the number of ballot papers printed, the number issued by him/her and the number used and unused and, in his/her written declaration of the poll, shall account for every ballot paper printed.
- (xiii) The Returning Officer shall issue by pre-paid post to each financial member within the electorate, a Ballot Paper as specified, together with a declaration envelope marked "Ballot Paper" suitable for containing the Ballot Paper and supply therewith to each voter a pre-paid envelope addressed to the Returning Officer.
- (xiv) The Returning Officer shall arrange for a post office box to which ballot papers may be forwarded and shall arrange, so far as is possible, that such post office box is not able to be accessed by persons other than himself/herself (post office staff excepted).
- (xv) The Returning Officer shall instruct each voter in the manner in which a vote is to be recorded on the ballot paper.

- (xvi) The voter shall, on receipt of the ballot paper, record his/her vote, enclose the ballot paper in the envelope marked "Ballot Paper", seal the envelope, sign the declaration on the removable flap or label in the place provided and insert it in the prepaid envelope bearing the address of the Returning Officer and thereafter forward it by post to the Returning Officer.
- (xvii) The Returning Officer shall, after the closing date for the ballot, collect the envelopes containing the ballot papers from the post office box. He/she shall check the details and declaration on the removable flap or label with the voters' roll to ensure that no votes are cast except by those entitled to do so and that no voter has cast more votes than he/she is entitled to. He/she shall then remove the declaration envelopes marked "Ballot Paper" from the outside envelopes.
- (xviii) The Returning Officer shall remove the removable flap or label from the declaration envelope marked "Ballot Paper" before removing the ballot papers. He/she shall admit the ballot papers properly marked and count those ballot papers.
- (xix) Where more than one candidate receive the same number of votes, the Returning Officer shall determine the successful candidate by lot provided that the candidates agree. In the event that the candidates do not agree then a further ballot shall be held in accordance with these Rules.
- (xx) When the counting of the ballot is completed, the Returning Officer shall cause all envelopes, ballot papers, lists and other documents relating to the election to be filed and preserved at the registered office of the Union or the office of the Branch, as the case may be, for a period of one year after completion of the election.
- (xxi) The Returning Officer shall declare the result of the ballot as soon as practicable following the completion of the count.
- (xxii) The Returning Officer shall have the power to call fresh elections in the event of irregularities being discovered in relation to the ballot or for any other reason which affects the legality of the election result.
- (xxiii) Where no nominations are received for any position the Returning Officer shall by notice in writing to the members call for nominations for that position within 7 days of the declaration of the ballot. A further election shall be held for that position and as far as is practicable the provisions of this Rule shall apply.

#### 74 - METHOD OF VOTING

Except as provided Parts X to XV of these Rules, the method of voting for National and Branch Offices shall be first past the post. Accordingly, voters shall place a cross in each square of the ballot paper opposite the name(s) of the candidate(s) of his/her choice up to but not exceeding the number of candidates required to be elected. A mark other than a cross shall be regarded as a valid vote provided that the Returning Officer is of the view that the ballot paper clearly indicates the voter's intention. Where the number of candidates to be elected exceeds one, a vote shall be valid notwithstanding that the voter does not exercise his/her right to cast his/her vote for the total number of candidates to be elected.

**75 - ELECTION PROCEDURES: TRAM AND BUS DIVISION**

- (1) All voting for National or Branch Offices which represent members within the Tram and Bus Division only, shall be by attendance ballot.
- (2) Elections for National or Branch Offices which represent members within the Tram and Bus Division only, shall be conducted in accordance with the timetable specified in Rule 71 with the necessary changes being made and be conducted by the National or Branch Returning Officers appointed pursuant to Rule 72. In addition, the provisions of Rule 73, with the exception of paragraphs (viii), (x), (xiii), (xiv), (xvi), (xvii) and (xviii), shall apply to such elections.

Members shall be notified by printed circulars setting out all positions for which an election is to be conducted by the Returning Officer. Such circulars to be posted in all work centres e.g. Depots, Sheds, Offices, Departments etc. where the Division members are employed. These circulars shall be displayed for at least three weeks prior to the closing of nominations.

- (3) If the number of nominations exceeds the number of vacancies, the Returning Officer shall arrange for a secret ballot to be held of all financial members within the relevant electorate. Such ballot shall be conducted by the Returning Officer over two days within the State of Victoria and over one day within other States within the ballot period specified in Rule 71 and the Returning Officer shall ensure that all members are advised of the time and place at which they may cast their votes.

The ballot of financial members of the Division shall be held on the same day/days. Where the ballot is held on one day the ballot must be held on the Thursday of the third full week in November. Where the ballot is held over two days the ballot must be held on the Wednesday and Thursday of the third full week of November. The time(s) for polling shall be 7.00 a.m. to 4.30 p.m. on the day(s) of the ballot. Members shall be notified by printed circular of the time and date(s) of polling, circulars to be posted in all work centres.

- (4) Any member who satisfies the Returning Officer that he/she will be unable to vote personally on the day fixed for the ballot, shall be provided with a postal ballot and the provision and processing of such postal ballot shall be in accordance with paragraphs (x), (xiii), (xiv), (xv), (xvi), (xvii) and (xviii) of Rule 73.
- (5) Except in the case of absent voting pursuant to the provisions of Sub-Rule 75(5), ballots covered by this Rule shall be in accordance with the following provisions:-
  - (i) Ballots shall be conducted in a room or marquee or other suitable place that will ensure suitable voter privacy;
  - (ii) An Assistant Returning Officer appointed pursuant to Rule 72 shall be in attendance at such polling place and shall ensure that members entitled to vote are afforded an adequate opportunity of voting without intimidation;
  - (iii) A voter's roll shall be provided at each polling place and the Assistant Returning Officer shall ensure that a record of each member voting is duly made on the roll.

As soon as practicable after the date determined for the commencement of issuing ballot papers in respect of an election, the Returning Officer shall deliver to each



## 76 - COLLEGIATE ELECTIONS

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Assistant Returning Officer sufficient ballot papers for each person whose name appears on the roll of voters for the relevant work centre.

At the end of each day's voting the Returning Officer shall check with the Assistant Returning Officer the number of ballot papers issued with the voters roll to ensure that no votes are cast except by those entitled to do so and that no voter has cast more votes than he/she is entitled to;

- (iv) Sealed and locked ballot boxes must be used at the conclusion of the ballot and all boxes must be transported personally by the Assistant Returning Officer in charge of the particular booth to the custody of the Returning Officer;
- (v) Once a voter has marked his/her ballot paper, he/she shall deposit such ballot paper in the ballot box in the presence of the Assistant Returning Officer;
- (vi) The Returning Officer shall after the closing of the ballot, collect the envelopes containing the absentee ballot papers from the post office box in time for them to be counted together with the votes cast at the various work centres. Each Assistant Returning Officer shall provide the Returning Officer with a Declaration which will show:-
  - (a) the number of ballot papers received;
  - (b) the number of ballot papers issued (other than duplicate ballot papers); and
  - (c) the number of duplicate ballot papers issued.

Upon return of the ballot boxes to the Returning Officer, the Returning Officer shall supervise and monitor the removal of the ballot papers from the ballot box, the admission of those ballot papers which are properly marked and the counting of those ballot papers by the Assistant Returning Officers;

- (vii) The Returning Officer shall declare the result of the ballot as soon as practicable following the completion of the count.

## 76 - COLLEGIATE ELECTIONS

- (1) Collegiate elections shall be conducted by the National or Branch Returning Officer and shall be by secret ballot undertaken at a meeting of the relevant Governing Body which constitutes the electoral college.
- (2) The following provisions shall apply to collegiate elections:-
  - (i) Nominations shall be called by notice sent by the Returning Officer to the postal address of each member of the Governing Body eligible to nominate, at least thirty days prior to the meeting at which the ballot is to occur;
  - (ii) Nominations shall close at 12.00 noon on the first day of the scheduled meeting of the Governing Body;
  - (iii) The provisions of paragraphs (ii) and (iii) of Rule 73 shall apply to nominations for collegiate elections;

## 78 - CASUAL VACANCIES

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- (iv) Any member nominating may withdraw his/her nomination by advising the Returning Officer in writing at any time up to the close of nominations;
- (v) Any member of the Governing Body entitled to vote who satisfies the Returning Officer that he/she will be unable to vote personally on the day fixed for the ballot, shall be provided with a postal ballot and the provision and processing of such postal ballot shall be in accordance with paragraphs (x), (xiii), (xiv), (xv), (xvi), (xvii) and (xviii) of Rule 73;
- (vi) If the number of nominations does not exceed the number of vacancies, the Returning Officer shall declare the nominees duly elected;
- (vii) If the number of nominations exceeds the number of vacancies, a secret ballot of the members of the Governing Body entitled to vote shall be held during the course of the afternoon on the first day of the meeting of such Governing Body;
- (viii) The method of voting shall be as prescribed in Rule 74;
- (ix) In addition to the provisions specified elsewhere in this Rule, the provisions of paragraphs (v), (xix), (xx), (xxi) and (xxii) of Rule 73 shall apply to collegiate elections.

## 77 - NOMINATION FOR MORE THAN ONE OFFICE

Where two Offices cannot be held simultaneously under these Rules then a person may not nominate for both Offices. Where a person does so nominate, he/she shall be required by the Returning Officer to elect which of the Offices he/she wishes to nominate for. Where a person declines or otherwise fails to so elect, then he/she shall be deemed to have nominated for that Office having the highest ranking in the order of preference shown in Sub-Rule 31(1) and in the Rules specifying Branch Offices in Parts X to XV of these Rules, with National Offices ranking ahead of Branch Offices.

## 78 - CASUAL VACANCIES

- (1) A casual vacancy occurs when an Office Bearer dies, resigns or is removed from office or ceases to hold office in accordance with these Rules.
- (2) Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a four year term of Office is more than twenty four months or where the unexpired portion of a two year term of Office is more than 12 months, a ballot shall be held to fill the Office in accordance with the provisions of this Part and the person or persons duly elected shall take office on and from the date of the declaration of the ballot.
- (3) Where an election is to be held pursuant to the provisions of Sub-Rule 78(2), the National Council in the case of a National Office or the Branch Council in the case of a Branch Office, may appoint a person to fill the vacant Office pending the declaration of the ballot.
- (4) Except as provided in sub-rule (2), the National Council, in the case of National Office Bearers and the Branch Council in the case of Branch Office Bearers may appoint a person to fill a casual vacancy.
- (5) Where a person is elected under Sub-Rule 78(2) or appointed under Sub-Rule 78(4) to fill a casual vacancy, then he/she shall hold office for the unexpired portion of the term.

- (6) Notwithstanding anything elsewhere contained in this Rule, where an appointment is made pursuant to the provisions of Sub-Rules 78(3) or (4) in relation to an Office which, under these Rules, is to be filled on the basis of an order of seniority, then any appointment to a casual vacancy shall be in accordance with that order of seniority.

#### **79 - TEMPORARY APPOINTMENTS**

- (1) Subject to Sub-Rule 79(2) and (3), where by reason of illness, absence on leave or any other reason, an Office Bearer is unable to fulfil the duties of his/her Office for a period exceeding six weeks, then the National Executive in the case of National Office Bearers and the Branch Executive in the case of Branch Office Bearers, may appoint an Office Bearer to act in the Office for the duration of the absence with such appointee having all the rights and duties of the particular Office.
- (2) In the case of the National President and the National Secretary, a National Vice-President and the Assistant National Secretary or an Assistant National Secretary (Divisional) respectively shall act in the Office pursuant to the provisions of Rules 37 and 38A. In the case of the Branch President and the Branch Secretary, a Branch Vice-President and the Assistant Branch Secretary respectively, shall act in the Office pursuant to the provisions of Rule 53 and 55.
- (3) In the case of the Assistant National Secretary, an Assistant National Secretary (Divisional) shall act in the office pursuant to the provisions of Rule 38A.

#### **PART IX - GENERAL**

#### **80 - IRREGULARITIES**

- (1) Any Governing Body within the Union may continue to function notwithstanding any vacancy thereon provided that the requisite quorum is present.
- (2) No failure to give notice or other defect in the calling of any meeting of any Governing Body within the Union shall invalidate the proceedings thereof unless such failure or defect results in the non-attendance of some member or members otherwise able and willing to attend. Provided that any such failure or defect may be waived by such member or members.
- (3) All communications sent to members or Office Bearers pursuant to the provisions of any of these Rules, may be sent to such member or Office Bearer at the last address notified by him/her to the Union.
- (4) Except where the Rules provide for a specific form of communication, all communications to members or Office Bearers may be sent by post, telegraph, telex, facsimile transmission or other like means and shall be deemed to have been received by such member or Office Bearer in the ordinary course of post, telegraph, telex, facsimile transmission or like means, as the case may be.
- (5) Except in the case of disciplinary proceedings under Rule 69, no decision or proceeding of any Governing Body provided for under these Rules shall be invalidated by the presence at or participation of any person not entitled to be present or to participate therein if, apart from such person, the requisite quorum was present and the vote of such a person did not determine the decision or the result of the proceedings.



# Fair Work Australia

17 March 2011

Mr Allan Barden  
Assistant National Secretary  
Australian Rail, Tram & Bus Industry Union  
83 - 89 Renwick Street  
REDFERN NSW 2016

Dear Mr Barden

**Re: Elections for the Australian Rail, Tram & Bus Industry Union - (E2011/2548)**

I refer to your correspondence dated 11 March 2011 which was lodged with Fair Work Australia on 17 March 2011, requesting an election for a Delegate to the National Council for the NSW Rail Operations Division (E2011/2548).

Before a decision concerning the election can be made, Fair Work Australia requires the following information to be lodged under s138 of the *Fair Work (Registered Organisations) Regulations 2009*:

1. A statement confirming the date nominations are to open and close;
2. Identification of the electorate - branch, section, division name;
3. Notification of the voting system to be used; and
4. A statement confirming that the information is lodged under subsection s189(1) of the *Fair Work (Registered Organisations) Act 2009*.

Could you please lodge further amended prescribed information which includes the details mentioned above. I have enclosed a *Sample Notice and Statement of Prescribed Information for an Election* for your convenience.

If you have any queries, please do not hesitate to contact me on (02) 8374 6509.

Yours sincerely

David Vale  
Fair Work Australia

## Sample Notice and Statement of Prescribed Information for an Election

I, [name], being the [title of office] of the [name of organisation and branch], make the following statement:

I am the [title of office] of the [title of organisations and branch],

I am authorised to lodge the following prescribed information concerning forthcoming elections in the [title of branch] of the [title of organisation], and

I confirm that the following information is being lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009

Signed: [signature]

Dated: [date]

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### Offices/Positions

<b>A</b>	Branch President (Direct Voting System)
	Branch Vice-Presidents (2) (DVS)
	Branch Secretary (DVS)
	Branch Treasurer (DVS)
	Branch Executive Committee Members (15) (DVS)
	Branch Delegates to National Council (5 together with Branch Secretary who is ex officio a member of National Council) (Collegiate election)
<b>B</b>	Branch Councillors (2) (DVS)
<b>C</b>	Branch Assistant Secretary (DVS)
<b>D</b>	Branch Representatives to Trades Council (2) (Collegiate)
	Branch Representative to ACTU (Collegiate)

### Reasons for election:

- Election for offices and positions marked A and D respectively is required as the terms of office are due to expire in the normal course of events under the rules of the organisation.
- Election for offices marked B is required to fill casual vacancies that have recently occurred (documentary information relating to the resignation of the persons holding the offices of Branch Councillor is enclosed)

- Election for the office marked C is required because this is a new position that has been created under the rules.

**Elected by:**

- The electorate for the direct voting system is the whole of the Branch.
- The electorate for collegiate electoral system is by and from the Branch Committee (totalling 21 persons)

**Nominations open:**

- For offices to be elected by direct voting system - the first Monday in June
- For offices to be elected by collegiate election - at the AGM in September

**Nominations close:**

- For offices to be elected by direct voting system - 12 noon, first Friday in July
- For offices to be elected by collegiate election - at the AGM in September

**Cut off date for roll:**

- In all cases - 7 days prior to the opening date for nominations - rule 22(g).

Notes:

The above sample Notice and Statement would satisfy each of the particulars required under s189(1) and the relevant regulations.

The Notice and Statement are required to be lodged at least 2 months before the first day of nominations as set out in the rules of the organisation – the General Manager of FWA may allow for a later day - see subsection 189(2) and regulations.

The requirement to lodge election information under s189(2) is a civil penalty provision – see s305.

**MOLONEY, Carolyn**

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**From:** MOLONEY, Carolyn  
**Sent:** Thursday, 17 March 2011 10:54 AM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2011/2548  
**Attachments:** ARTBIU prescribed information.pdf; 139V ARTBIU R2011\_6\_16022011.pdf

Dear AEC

Please find attached the prescribed information and a copy of the current rulebook for an upcoming election of the Australian Rail, Tram and Bus Industry Union. (E2011/2548).

Kind regards,

**CAROLYN MOLONEY**  
RIA Team Administrative Officer

**Fair Work Australia**  
Tel: 02 8374 6620  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)

E2011/2548



# RAIL, TRAM & BUS UNION

AUSTRALIAN RAIL, TRAM & BUS INDUSTRY UNION

ABN 28 921 128 419

NATIONAL OFFICE: 83-89 Renwick Street, REDFERN NSW 2016

Phone: (02) 9310 3966

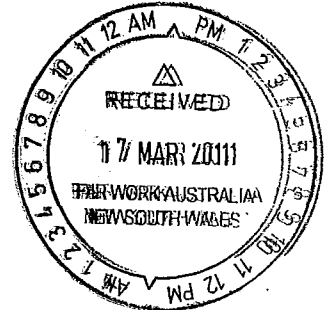
Fax: (02) 9319 2096

Email: [rtbu@rtbu-nat.asn.au](mailto:rtbu@rtbu-nat.asn.au)

web: [www.rtbu-nat.asn.au](http://www.rtbu-nat.asn.au)

Mr Stephen Kellett  
The General Manager  
Fair Work Australia  
GPO Box 1994  
Melbourne VIC 3001

11 March 2011



**Subject**      **Election for Vacant Position**

Dear Sir,

I have just received an email (see attached) from Mr. Derek Morgan – Jones, a successful candidate in our recent Elections (E 2010/2643 & E2010/2653) for the position of **Delegate to National Council from NSW Rail Operations Division**, confirming his resignation of the aforementioned position.

I refer to Rule 78(2) of the ARTBIU Rules; ***Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a four year term of Office is more than twenty four months or where the unexpired portion of a two year term of Office is more than 12 months, a ballot shall be held to fill the Office in accordance with the provisions of this Part and the person or persons duly elected shall take office on and from the date of the declaration of the ballot.***

Therefore in accordance with Section 189 of the *Fair Work (Registered Organisations) Act 2009*, I am requesting that you arrange for the conduct of the election of office-holder for the Australian Rail, Tram and Bus Industry Union (RTBU) for the position of **Delegate to National Council from NSW Rail Operations Division**

I can be contacted on (02) 9310 3966 if you have any further queries

Yours Sincerely,

Allan Barden  
Assistant National Secretary  
Australian Rail, Tram and Bus Industry Union.