



## DECISION

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

### **Australian Rail, Tram and Bus Industry Union** (E2016/99)

MR ENRIGHT

MELBOURNE, 6 APRIL 2016

*Arrangement for conduct of election.*

[1] On 8 March 2016, the Australian Rail, Tram and Bus Industry Union lodged with the Fair Work Commission the prescribed information in relation to a casual vacancy election, for the remainder of the term, for the following office and non-office positions:

#### **New South Wales Branch**

##### Branch Council Delegate

Affirmative Action (woman) (from the Rail Divisions) (1)

##### Locomotive Division

ETR/Railcorp Group Sub-Division – Leppington Depot Organiser (1)

Intercity/Railcorp Group Sub-Division – Gosford Depot Organiser (1)

[2] I am satisfied that an election for the abovenamed office and non-office positions 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

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**From:** Allan Barden <abarden@rtbu.org.au>  
**Sent:** Tuesday, 8 March 2016 4:03 PM  
**To:** Orgs  
**Subject:** Request for Conduct of Elections.  
**Attachments:** FWC request for election Mar 2016.pdf

**Categories:** RIA

Fair Work Commission  
Terrace Tower  
80 William St.  
East Sydney  
NSW 2011

Subject:- Request for Conduct Of Elections in accordance with s182 and s187 of the Fair Work (Registered Organisations) Act 2009.

Dear Sir,

Please find attached the Australian Rail, Tram and Bus Industry Union's request for the conduct of elections in accordance with the Fair Work (Registered Organisations) Act 2009.

I have also sent a hard copy.

I have also informed the The Australian Electoral Commission of our request.

*Regards,*



**Allan Barden** Assistant National Secretary

**Rail, Tram & Bus Union Australia** *The Power of Union*

Office: Lvl 2, Trades Hall, 4-10 Goulburn Street, Sydney NSW 2000  
Phone: 02 8203 6099 Fax: 02 9319 2096

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**RTBU**

8th March 2016  
To The General Manager  
Fair Work Commission  
Terrace Tower  
80 William St.  
East Sydney,  
NSW 2011

Subject:- **Elections for Vacant Office and Vacant Position**

Dear General Manager,

I have received a request from Mr. Alex Claassens, New South Wales Branch Secretary, of the need for elections for offices and positions (the meaning of office and position as set out in Section 9 of the Fair Work (Registered Organisation) Act 2009) as set out below:-

**OFFICE**

***1 New South Wales Branch, Rail Divisions, Affirmative Action (Woman) Delegate To Branch Council.***

The delegate was a successful candidate from the recently held elections (E2014/172) has resigned due to personal reasons.

**POSITIONS**

***1 New South Wales Branch, Locomotive Division, Leppington Depot, Depot Organiser.***

The delegate was a successful candidate from the recently held elections (E2014/172) has resigned due to personal reasons

***1 New South Wales Branch, Locomotive Division Depot Organiser – InterCity/RailCorp- Gosford Sub Division.***

The delegate was a successful candidate from the recently held elections (E2014/172) has resigned due to personal reasons

**Rail, Tram & Bus Union Australia The Power of Union**

**Office:** Level 2, Trades Hall, 4-10 Goulburn Street, Sydney NSW 2000

**Phone:** 02 8203 6099 **Fax:** 02 9319 2096



## **RTBU**

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 Sections 182 and 187 of the *Fair Work (Registered Organisations) Act 2009*, I am requesting that you arrange for the conduct of the election of office-holders and positions for the Australian Rail, Tram and Bus Industry Union (RTBU) for the aforementioned offices and positions.

The Prescribed Forms in accordance with Reg 138 are in Attachment A, the relevant correspondence detailing the resignations and request for elections are in Attachment B and Rule 70 of the ARTBIU rules detailing election processes is on Attachment C.

Further, I have also advised the AEC of this request.

I can be contacted on (02) 8203 6099 or by email [abarden@rtbu.org.au](mailto:abarden@rtbu.org.au) if you have any further queries

Yours Sincerely,

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

**Rail, Tram & Bus Union Australia The Power of Union**

**Office:** Level 2, Trades Hall, 4-10 Goulburn Street, Sydney NSW 2000

**Phone:** 02 8203 6099 **Fax:** 02 9319 2096

# **ATTACHMENT A**

## **STATEMENT/ APPLICATION FOR ELECTION UNDER s182**

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 182 of the Fair Work (Registered Organisations) Act 2009 and is set out below.

1. The office for which an election is required is for **1 New South Wales Branch, Rail Divisions, Affirmative Action (Woman) Delegate to Branch Council.**
2. The reason for the election is that an incumbent to the aforementioned position has resigned (see attached documentation), 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. Eligibility and Electorate  
Whole of the female membership of the New South Wales Branch, Rail Divisions.
4. The criteria for General Elections is set out in Rule 70 ( see attached rule 70.)
5. The kind of voting system to be used is the optional preferential method, as outlined in the following rule 105(1).

### **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 

Dated 8<sup>th</sup> MARCH 2016

## **STATEMENT/ APPLICATION FOR ELECTION UNDER s187**

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 187 of the Fair Work (Registered Organisations) Act 2009 and is set out below.

1. The office for which an election is required is for **1 New South Wales Branch Locomotive Division, Leppington Sub Division Depot Organiser.**
2. The reason for the election is that an incumbent to the aforementioned position has resigned (see attached documentation), 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. Eligibility and Electorate  
Whole of the membership of the New South Wales Branch, Locomotive Division, Leppington Depot.
4. The criteria for General Elections is set out in Rule 70 ( see attached rule 70.)
5. The kind of voting system to be used is the optional preferential method, as outlined in the following rule 105(1).

### **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 'Aberdeen'.

Dated

8TH MARCH 2016

## **STATEMENT/ APPLICATION FOR ELECTION UNDER s187**

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 187 of the Fair Work (Registered Organisations) Act 2009 and is set out below.

1. The office for which an election is required is for **1 New South Wales Branch Locomotive Division- InterCity/RailCorp Group- Gosford Sub Division Depot Organiser.**
2. The reason for the election is that an incumbent to the aforementioned position has resigned (see attached documentation), 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. Eligibility and Electorate  
Whole of the membership of the New South Wales Branch, Locomotive Division, Gosford Depot.
4. The criteria for General Elections is set out in Rule 70 ( see attached rule 70.)
5. The kind of voting system to be used is the optional preferential method, as outlined in the following rule 105(1).

### **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 

Dated 8<sup>TH</sup> MARCH 2016

# **ATTACHMENT B**



AC:DT

17<sup>th</sup> February 2016

Mr A Barden  
Assistant National Secretary  
Rail, Tram and Bus Union  
Suite 210, Level 2, 4 Goulburn Street  
**SYDNEY NSW 2000**

Dear Allan,

**Re: Request for Election to Fill Vacant Position**

Please find attached resignation from elected delegate Julie Puttock and as such it would be appreciated if processes could be commenced for an election to be conducted to fill the vacant position of 'Affirmative Action (woman) Delegate to Branch Council (from Rail Divisions).

Yours fraternally

ALEX CLAASSENS  
**BRANCH SECRETARY**

Level 4, 321 Pitt Street  
Sydney NSW 2000

Tel (02) 9264 2511  
Fax (02) 9264 1342

E-mail  
nswwho@rtbu-nsw.asn.au  
Website  
www.rtbuexpress.com.au

**NEWCASTLE OFFICE**

33 Gordon Avenue  
Hamilton NSW 2303

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Fax (02) 4961 4779

Email  
newcastle@rtbu-nsw.asn.au

**WOLLONGONG OFFICE**

Level 1, 306A Crown Street  
Wollongong NSW 2500

Tel (02) 4227 5798  
Fax (02) 4226 5262

Email  
wollongong@rtbu-nsw.asn.au



AC:DT

11<sup>th</sup> February 2016

Mr A Barden  
Assistant National Secretary  
Rail, Tram and Bus Union  
Suite 210, Level 2, 4 Goulburn Street  
**SYDNEY NSW 2000**

Dear Allan,

**Re: Request for Election to Fill Vacant Position**

Please find attached resignation from elected delegate David Tiata and as such it would be appreciated if processes could be commenced for an election to be conducted to fill the vacant position.

David Tiata                      Locomotive Division  
ETR/RailCorp Group 2 – Sub-Division Representative –  
Depot Organiser – Leppington (Sydney Trains) Sub-Division

Yours fraternally

ALEX CLAASSENS  
**BRANCH SECRETARY**

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wollongong@rtbu-nsw.asn.au



AC:DT

14<sup>th</sup> October 2015

Mr A Barden  
Assistant National Secretary  
Rail, Tram and Bus Union  
Suite 210, Level 2, 4 Goulburn Street  
**SYDNEY NSW 2000**

A 10-15

Dear Allan,

**Re: Request for Election to Fill Vacant Position**

Please find attached resignation from Peter Bull, it would be appreciated if you would arranged to have the AEC conduct an election for the now vacant position of Locomotive Division – InterCity/RailCorp Group – Gosford Sub-Division – Depot Organiser.

Yours fraternally

ALEX CLAASSENS  
**BRANCH SECRETARY**

Level 4, 321 Pitt Street  
Sydney NSW 2000

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Fax (02) 9264 1342

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# **ATTACHMENT C**



## **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) For the conduct of the 2014 elections, nominations shall open at 9:00am on the first Monday in September 2014 and shall close at 5:00pm on the fourth Monday in September 2014. If a ballot is necessary, the ballot shall commence at 9:00am on the first Monday in November 2014 and shall conclude at 5:00pm on the fourth Monday in November 2014.
  - (ii) nominations shall open at 9.00am on the first Monday in July of an election year and shall close at 5.00pm on the fourth Monday in July in that year.
  - (iii) where a ballot is necessary, the ballot shall commence at 9.00am on the first Monday in September of an election year and shall conclude at 5.00pm on the fourth Monday in September 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 XVI 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.

For the conduct of the 2014 Elections - 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 2014. 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 2014. 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.

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 September. Where the ballot is held over two days the ballot must be held on the Wednesday and Thursday of the third full week of September. 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 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;
- (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) deleted

- (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, or the proxy of a member as per Rule 67, 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 XVI 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.