



Fair Work (Registered Organisations) Act 2009

POST ELECTION REPORT

Australian Rail, Tram & Bus Industry Union

New South Wales Branch, Vacancies

ELECTION/S COVERED IN THIS REPORT

Election Decision No/s: E2013/268

RULES

Rules used for the election: [139V: - This Rule Book incorporates alterations certified on 9 April 2013 in R2013/141]

Rules difficult to apply/interpret: Nil
Model Rule reference (if any): N/A

ROLL OF VOTERS

As there were no contested offices, 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: Nil

ATTACHMENTS

1. Declaration of Results E2013 - 268



Noopur Madan
Returning Officer
27 November 2013

Australian Rail, Tram and Bus Industry Union NSW Branch Vacancies

Declaration of Results for Uncontested Offices

E2013/268

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

Metropolitan District Infrastructure Division

Branch Divisional Delegate to Branch Council

Candidates

SHERMAN, Anthony

Tram and Bus Division

Branch Divisional Delegate to Branch Council

Candidates

SINCLAIR, Narelle

Newcastle Sub-Division Locomotive Division

Depot Organiser

Candidates

KELLY, Warren

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



Noopur Madan
Returning Officer

26 November 2013



DECISION

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

Australian Rail, Tram and Bus Industry Union (E2013/268)

MR ENRIGHT

MELBOURNE, 19 SEPTEMBER 2013

Arrangement for conduct of election.

[1] On 13 September 2013 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 following offices and non-office position:

New South Wales Branch:

New South Wales Branch Infrastructure Division, Metropolitan District Delegate to Branch Council (1)

New South Wales Branch Tram and Bus Division, Delegate to Branch Council (1)

New South Wales Branch Locomotive Division, Depot Organiser (Newcastle) (1)

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



[2013] FWCD 7050

DELEGATE OF THE GENERAL MANAGER

Printed by authority of the Commonwealth Government Printer

<Price code A, PR541877>

19 September 2013



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: 2013/268

RE: Australian Rail, Tram and Bus Industry Union

Offices: See Decision

Relevant Information: Election of offices and position.

Contact: Mr Allen Barden - Assistant National Secretary

Phone: (02) 8203 6099

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@fwc.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to be 'Kiet Mac', written in a cursive style.

Kiet Mac
Regulatory Compliance Branch, NSW
Fair Work Commission



19 September 2013

Mr Allan Barden
Assistant National Secretary
Australian Rail, Tram and Bus Industry Union
Suite 210, 4-10 Goulbourn Street
SYDNEY NSW 2000

Dear Mr Barden

Arrangements for the conduct of an election (E2013/268)

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

The Fair Work Commission is making arrangements, under subsections 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

A handwritten signature in black ink, appearing to read 'Kiet Mac', is located below the 'Yours sincerely' text.

Kiet Mac
Regulatory Compliance Branch, NSW
Fair Work Commission



13th September 2013
Mr David Vale
Fair Work Australia
Terrace Tower
80 William St.
East Sydney,
NSW 2011



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

Dear Sir,

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

New South Wales Branch Infrastructure Division, Metropolitan District Delegate to Branch Council

The delegate was a successful candidate from the recently held elections (E2012/334) has resigned due to personal reasons.

New South Wales Branch, Tram and Bus Division, Delegate to Branch Council

The delegate was a successful candidate from the recently held elections (E2012/334) has retired due to medical reasons.

I have also received a request from Mr. Alex Claassens, New South Wales Branch Secretary, of the need for one election for the position as set out below:-

New South Wales Branch Locomotive Division Newcastle Depot Organiser

The delegate was a successful candidate from the recently held elections (E2012/334) and has resigned due to a change of employment.

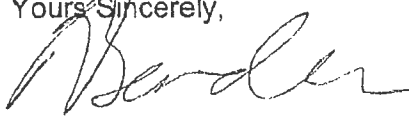
I refer to Rule 78(2) of the ARTBIU Rules; ***Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a four year term of Office is more than twenty four months or where the unexpired portion of a two year term of Office is more than 12 months, a ballot 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 for the Australian Rail, Tram and Bus Industry Union (RTBU) for the office of ***New South Wales Branch Infrastructure Division, Metropolitan District Delegate to Branch Council*** and for the position of ***New South Wales Branch Locomotive Division Newcastle Depot Organiser***.

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 if you have any further queries

Yours Sincerely,



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



Mr Lee Jones
Senior Returning Officer
Australian Electoral Commission
PO Box 496
HAYMARKET NSW 1239

13th September 2013

Dear Mr Jones

Election of Office and Position for the Australian Rail, Tram and Bus Industry Union.

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 elections of New South Wales Branch Infrastructure Division, Metropolitan District Delegate to Branch Council, New South Wales Branch Tram and Bus Division Delegate to Branch Council and New South Wales Branch, Locomotive Division Newcastle Depot Organiser.

I have requested that Fair Work Australia arrange for elections to be conducted, and FWA have been provided with a copy of the prescribed information as required by Regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009*.

Please contact me on (02) 8203 6099 or by email abarden@rtbu.org.au if you have any queries.

Regards

Allan Barden
Assistant National Secretary

Cc: David Vale, Fair Work Australia

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 Tram and Bus Division, Delegate to Branch Council***

2.. The reason for the election is that an incumbent to the aforementioned position has retired, (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, Tram and Bus Division.

4. 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.)

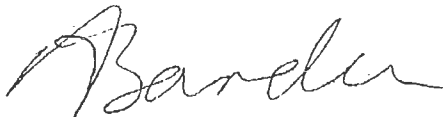
5. The kind of voting system to be used is by attendance ballot (as outlined in Rule 75- election Procedures Tram and Bus Division) and is a first past the post method, as outlined in the following rule 105 (2).

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*

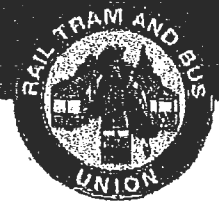
I am an officer of the organisation authorised to make and sign the above statement.

Signed



Dated

13-9-2013



AC:DT

6th September 2013

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

Dear Allan,

**Re: Advice of Resignation from Branch Council – Alan Burke
Request for Election to Fill Vacant Position**

Please find attached resignation from Alan Burke.

Alan held a position on the Branch Council (Tram and Bus Division) and as such, it would be appreciated if you would arrange to have the AEC conduct an election for the now vacant position.

Yours faithfully

ALEX CLAASSENS
BRANCH SECRETARY

Level 4, 321 Pitt Street
Sydney NSW 2000

Tel (02) 9264 2511
Fax (02) 9261 1342

E-mail
nswho@rtbu-nsw.asn.au
Website
www.rtbu-nsw.asn.au

NEWCASTLE OFFICE
33 Gordon Avenue
Hamilton NSW 2303
Tel (02) 4961 4311
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
ABN 55 090 785 801

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 Infrastructure Division, Metropolitan District 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 membership of the New South Wales Branch, Infrastructure Division Metropolitan District.

4. 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.)

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 "Baudin", written over a horizontal line.

Dated

13-9-2013



AC:DT

10th September 2013

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

Dear Allan,

**Re: Advice of Resignation from Branch Council – Raymon West
Request for Election to Fill Vacant Position**

Please find attached resignation from Raymon West.

Alan held a position on the Branch Council (Infrastructure Division) and as such, it would be appreciated if you would arrange to have the AEC conduct an election for the now vacant position.

Yours faithfully

ALEX CLAASSENS
BRANCH SECRETARY

Level 4, 321 Pitt Street
Sydney NSW 2000

Tel (02) 9264 2511
Fax (02) 9261 1342

E-mail
nswho@rtbu-nsw.asn.au
Website
www.rtbu-nsw.asn.au

NEWCASTLE OFFICE
33 Gordon Avenue
Hamilton NSW 2303
Tel (02) 4961 4311
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
ABN 55 090 785 801

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 position for which an election is required is for 1 New South Wales Branch, Locomotive Division, Newcastle 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 Newcastle Depot.

4. 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.)

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.

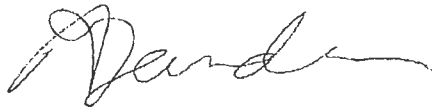
A voter has the option of whether to place a number against the name of each candidate or whether to place a number against the name or names of only some of them.

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 'Dando', written over a horizontal line.

Dated

13-9-2013



AC:DT

11th September 2013

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

Dear Allan,

**Re: Advice of Resignation from Locomotive Division Depot Organiser Position –
Newcastle
Request for Election to Fill Vacant Position**

Please find attached resignation from Stephen Harper.

Stephen held the position of Depot Organiser at Newcastle (Locomotive Division) and as such, it would be appreciated if you would arrange to have the AEC conduct an election for the now vacant position.

Yours faithfully

ALEX CLAASSENS
BRANCH SECRETARY

Level 4, 321 Pitt Street
Sydney NSW 2000

Tel (02) 9264 2511

Fax (02) 9261 1342

E-mail
nsw@rtbu-nsw.asn.au

Website

www.rtbu-nsw.asn.au

NEWCASTLE OFFICE

33 Gordon Avenue

Hamilton NSW 2303

Tel (02) 4961 4311

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

ABN 55 090 785 801

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

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 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. 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) 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.