

MOUTEVELIS, Michael

From: Jenny Meizer [Jenny.Meizer@aec.gov.au]
Sent: Thursday, 5 December 2013 1:59 PM
To: Orgs; owen.doogan@rtbu.com.au
Cc: Industrial Elections
Subject: Post Election Report and Declaration for ARTBIU Election 2013/209 [DLM=For-Official-Use-Only]

For-Official-Use-Only

Att: Mr Owen Doogan
Branch Secretary
Australian Rail, Tram and Bus Industry Union

Dear Owen

Post-Election Report

Australian Rail, Tram and Bus Industry Union – Queensland Branch Depot Sub Divisional Representative - Sherwood– E2013/209

I refer to the above election for your organisation.

Section 197(1) of the Fair Work (Registered Organisations) Act 2009 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 which the election was conducted. A copy of the report in relation to this election is attached.

Section 198 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' 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

Regards

Jenny Meizer | Returning Officer (ICE)
State Office Support Team | QLD State Office
Australian Electoral Commission
T: (07) 3834 3461 | M: unknown | F: (07) 3834 3469



Post Election
Report.pdf



Declaration of
Office.pdf

For-Official-Use-Only

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Fair Work (Registered Organisations) Act 2009

POST ELECTION REPORT

Australian Rail, Tram and Bus Industry Union Queensland Branch Depot Sub Divisional Representative - Sherwood

ELECTION/S COVERED IN THIS REPORT

Election Decision No/s: E2013/209

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: None

Model Rule reference (if any): N/A

ROLL OF VOTERS

Roll of voters closed on 26 August 2013- 237 on roll

IRREGULARITIES

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

Other irregularities identified, and action taken: Nil

ATTACHMENTS

Declaration of results for Contested Office dated 2 December 2013


Jenny Meizer
Returning Officer

5 December 2013

**Australian Rail, Tram and Bus Industry Union
Sherwood Depot Sub-Div Rep Election - E2013/209**

Declaration of Results for Contested Offices

E2013/209

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.


Sherwood Sub-Division

| | |
|---|------------|
| Total number of names on the roll of voters | 237 |
| Ballot papers issued | 150 |
| Replacement ballot papers issued | 0 |
| Total Ballot Papers Issued | 150 |
| Ballot papers / envelopes returned for scrutiny | 150 |
| Less ballot papers / envelopes rejected at preliminary scrutiny | 0 |
| Adjusting balance | 0 |
| Total Ballot Papers Admitted to Scrutiny | 150 |
| Percentage of ballot papers returned to number issued | 100 |

Sub Divisional Representative Sherwood Depot

| <u>Candidates</u> | <u>First Preference Votes</u> | <u>Votes</u> |
|------------------------|-------------------------------|--------------|
| DENMAN, Stephen | 123 | 123 |
| BACHOP, Jack | 27 | 27 |
| Exhausted Votes | | 0 |
| Loss/Gain by Fraction | | 0 |
| Total votes | 150 | 150 |
| Formal ballot papers | 150 | 150 |
| Informal ballot papers | 0 | 0 |

I declare Stephen Denman elected.


Jenny Meizer
Returning Officer
Australian Electoral Commission

2 December 2013



FAIR WORK
COMMISSION

28 June 2013

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

Dear Mr Barden

Re: Scheduled Elections - Australian Rail, Tram and Bus Industry Union (E2013/209)

I refer to the prescribed information lodged on 25 June 2013 under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009* in relation to an election for a Sub-Divisional Representative from the Sherwood Bus Depot from the Queensland Branch Tram and Bus Division.

The election has been granted. A copy of the Delegate's Decision is enclosed.

Yours sincerely

Stephen Kellett
Senior Adviser, Regulatory Compliance Branch



FAIR WORK
COMMISSION

DECISION

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

Australian Rail, Tram and Bus Industry Union
(E2013/209)

CHRIS ENRIGHT

MELBOURNE, 28 JUNE 2013

Arrangement for conduct of election.

[1] On 25 June 2013 the Australian Rail, Tram and Bus Industry Union lodged with the Fair Work Commission the prescribed information in relation to an election for the following position:

Queensland Branch

Tram and Bus Divisional Committee

Sub-Divisional Representative from Sherwood Bus Depot (1)

[2] I am satisfied that an election for the above-named 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.



DELEGATE OF THE GENERAL MANAGER
FAIR WORK COMMISSION

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<Price code A, PR538247>

From: KELLETT, Stephen
To: ["abarden@rtbu.org.au"](mailto:abarden@rtbu.org.au)
Subject: Election Decision - E2013/209
Date: Friday, 28 June 2013 9:20:00 AM
Attachments: [E2013 209 ARTBIU letter 28 June 2013.pdf](#)
[E2013 209 RTBU OLD Sherwood Decision 280613.pdf](#)

Dear Mr Barden,

Please see attached letter and Decision in relation to the above.

Yours sincerely

STEPHEN KELLETT
Regulatory Compliance Branch
FAIR WORK COMMISSION

80 William Street
EAST SYDNEY NSW 2011

(ph) (02) 6723 7237
(email) stephen.kellett@fwc.gov.au

From: KELLETT, Stephen
To: ["industrial.elections@aec.gov.au"](mailto:industrial.elections@aec.gov.au)
Subject: Election Decision - Qld Branch, ARTBIU - E2013/209
Date: Friday, 28 June 2013 9:10:00 AM
Attachments: [E2013_209_ARTBIU_FWC_letter_to_AEC_28_June_2013.pdf](#)
[E2013_209_RTBU_QLD_Sherwood_Decision_280613.pdf](#)
[139v.pdf](#)

Dear Electoral Officer,

Please see attached.

STEPHEN KELLETT
Regulatory Compliance Branch
FAIR WORK COMMISSION

80 William Street
EAST SYDNEY NSW 2011

(ph) (02) 6723 7237
(email) stephen.kellett@fwc.gov.au



FAIR WORK
COMMISSION

28 June 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 2013/209

RE: Australian Rail, Tram and Bus Industry Union

Positions:

See Decision

Relevant Information:

Contact: Mr Allan Barden, Assistant National Secretary

Phone: (02) 9310 3966; (email) rtbu@rtbu.org.au

A copy of the decision is attached.

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@fwa.gov.au.

A handwritten signature in black ink that reads 'Stephen Kellett'.

Stephen Kellett
Regulatory Compliance Branch
Fair Work Commission

Terrace Towers
80 William Street
East Sydney NSW 2011
Telephone: (02) 8374 6666
International: (612) 8374 6666
Facsimile: (02) 9380 6990
Email: sydney@fwc.gov.au

From: [KELLETT, Stephen](#)
To: [KELLETT, Stephen](#)
Subject: FW: Election of a Position - Qld Tram and Bus Division - Sherwood Sub-Divisional Representative
Date: Tuesday, 25 June 2013 7:06:51 PM
Attachments: [ARTBIU_OLD election 250613 presc info..pdf](#)
[139v.pdf](#)

Dear Electoral Officer,

Please see attached prescribed information in relation to an election E2013/ 209. The relevant rules are also attached

Yours sincerely

STEPHEN KELLETT
Regulatory Compliance Branch
FAIR WORK COMMISSION

80 William Street
EAST SYDNEY NSW 2011

(ph) (02) 6723 7237
(email) stephen.kellett@fwc.gov.au

From: [KELLETT, Stephen](mailto:KELLETT.Stephen)
To: [KELLETT, Stephen](mailto:KELLETT.Stephen)
Subject: FW: Election of a Position
Date: Tuesday, 25 June 2013 4:13:04 PM
Attachments: [S45C-313062514230.pdf](#)

From: Allan Barden [<mailto:abarden@rtbu.org.au>]
Sent: Tuesday, 25 June 2013 1:30 PM
To: VALE, David
Subject: Election of a Position

To Mr David Vale,
Fair Work Australia
Terrace Tower
80 William St.

Subject :- Election of a Position

Dear David,

Please find attached an application for an Election of a position, being the Queensland Branch Tram and Bus Division Sherwood Depot Sub Divisional Representative.

If you have any questions or queries please do not hesitate to contact me.

Regards

Allan Barden

Assistant National Secretary
RAIL, TRAM & BUS UNION AUSTRALIA
Suite 210, Level 2, 4-10 Goulburn Street **SYDNEY** 2000
T: [\(02\) 8203 6099](tel:(02)82036099) F: [\(02\) 9319 2096](tel:(02)93192096)

www.rtbu.org.au

Rail, Tram and Bus Union Australia - <http://www.rtbu.org.au>

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RTBU

RAIL, TRAM & BUS UNION AUSTRALIA

25th June 2013
Mr David Vale
Fair Work Australia
Terrace Tower
80 William St.
East Sydney,
NSW 2011

Subject:- **Election for Vacant Position**

Dear Sir,

I have received a request from Mr. Owen Doogan, Queensland Branch Secretary, of the need for elections for the position of ***Queensland Tram and Bus Division, Sherwood Depot Sub Divisional Representative.***

The Sherwood depot has recently become operational and therefore we request an election be held in accordance with Rule 116 (1), that states;

"The Sub-Divisional Representative for Sherwood Bus Depot, Gold Coast Tram Depot, Brisbane Tram Depot and Trade Coast Bus Depot will not be elected until those Depots become operational"

Therefore in accordance with Section 187 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 ***Queensland Tram and Bus Division, Sherwood Depot Sub Divisional Representative.***

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

I can be contacted on (02) 8203 6099 or by email abarden@rtbu-nat.asn.au if you have any further queries

Yours Sincerely,

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



RTBU

RAIL, TRAM & BUS UNION AUSTRALIA

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

25th June 2013

Dear Mr Jones

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

In accordance with Section 187 of the *Fair Work (Registered Organisations) Act 2009*, I am requesting that you arrange for the conduct of the election of Queensland Branch Tram and Bus Division, Sherwood Depot Sub Divisional Representative.

I have requested that Fair Work Australia arrange for an election 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-nat.asn.au if you have any queries.

Regards

Allan Barden
Assistant National Secretary

Cc: David Vale, Fair Work Australia

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 Queensland Branch, Tram and Bus Division, Sherwood Depot Sub Divisional Representative.

2. The reason for the election is that the depot has recently become operational in accordance with Rule 116(1) which states;

“The Sub-Divisional Representative for Sherwood Bus Depot, Gold Coast Tram Depot, Brisbane Tram Depot and Trade Coast Bus Depot will not be elected until those Depots become operational ”

4. Eligibility and Electorate

Whole of the membership of the Queensland Branch, Tram and Bus Division Sherwood Depot.

5. The criteria for General Elections is set out in Rule 70 (see attached rule 70.)

6. The kind of voting system to be used shall be by attendance ballot, as outlined in the following Rule 75

. 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

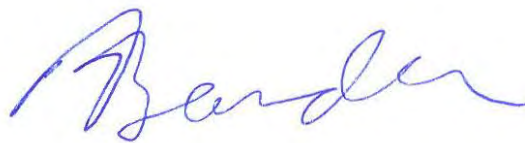
(c) the number of duplicate ballot papers issued

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..

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

Signed

A handwritten signature in blue ink, appearing to read 'Bender', is written over a faint, illegible printed name.

Dated

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.