

23 December 2021

Post-election report

**Communications, Electrical, Electronic,
Energy, Information, Postal, Plumbing
and Allied Services Union of Australia**

CEPU - Tasmania Divisional Branch,
Electrical, Energy and Services Division
Insufficient Nominations election
E2021/78

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Election(s) Covered in this Report

Organisation: CEPU - Tasmania Divisional Branch, Electrical, Energy and Services Division
Election: Insufficient Nominations
Election Decision No/s: E2021/78

Rules

Rules used for the election: [128V-ELE: Incorporates alterations certified on 3 November 2020 in matters R2020/149 & R2020/165] (replaces 23 July 2020 [R2020/95] version)

Rules difficult to apply/interpret: No

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website: www.aec.gov.au/ieb/

Other Matters

Returning Officer actions required (Section 193): Yes
Details

Rules regarding the timetable of the election were set aside as the AEC held concerns that the coronavirus pandemic may impact on the ability for stakeholders to fully participate in the election. A timetable for the conduct of the ballot which varied from the rules was set when the AEC was satisfied that stakeholders would be able to fully participate.

Rules specifying the method of lodgement of nominations were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for potential candidates to nominate. Instead nominations were received electronically, via email/the AEC's portal.

Signed

Kathleen Cassar
Returning Officer
Australian Electoral Commission
E: IEEvents@aec.gov.au
P: 08 8237 6598
23 December 2021

Attachments

A. Declaration of Results for Uncontested Offices – VIC/TAS

**Communications, Electrical, Electronic, Energy,
Information, Postal, Plumbing and Allied Services Union
of Australia**

**CEPU - Tasmania Divisional Branch, Electrical, Energy and
Services Division**

**DECLARATION OF RESULTS - E2021/78
Uncontested Offices**

Insufficient Nominations Election

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 are:

Northern Section

Divisional State Councillor (1)

Candidates

LETHBORG Stuart

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

Kathleen Cassar
Returning Officer
Telephone: 08 8237 6598
Email: IEEvents@aec.gov.au
23/12/2021





DECISION

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

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia

(E2021/78)

MR STEENSON

SYDNEY, 21 JUNE 2021

Arrangement for conduct of election.

[1] On 27 April and 12 May 2021 the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia - Electrical, Energy and Services Division - Tasmanian Divisional Branch (**the organisation**) lodged with the Registered Organisations Commission prescribed information for an election to fill the following office, due to insufficient nominations received in the previous scheduled election **E2019/70**:

Divisional State Councillor – Northern Section

(1)

[2] I am satisfied that an election for the abovenamed office is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009* (**RO Act**), I am making arrangements for the conduct of the election by the Australian Electoral Commission.

[3] I also note that the prescribed information lodged in this matter relates to an office for which insufficient nominations were received for an election declared on 24 July 2019. Even if there is not a specific rule in either the rules of the organisation or of the relevant Division stipulating a specific timeframe for the conduct of an election arising out of earlier insufficient nominations (in this case for Divisional State Councillors), it is apparent from the objects of the RO Act, particularly the principles of democratic control, that organisations and their branches need to make reasonable attempts to fill all offices, including those where vacancies arise through insufficient nominations being received.

[4] In this regard, the organisation's attention is drawn to the decision in *Geneff v Peterson and Ors* [1986] FCA 432, in particular the comments of Gray J at 129 that:¹

¹ Cited, for example, in *United Voice* [2016] FWCD 7830

If insufficient nominations are received, then further elections must be held and further nominations called for. This process must continue, for as long as vacancies exist on the Executive Committee. In the meantime, however, a branch is not to be paralysed by the inability of its decision-making body to function.

[5] I therefore take this opportunity to remind the organisation that where insufficient nominations are received at future scheduled elections – or indeed if insufficient nominations are received in the election to be arranged for this particular office – it should lodge prescribed information in a more timely manner in an attempt to fill such office(s).



DELEGATE OF THE COMMISSIONER

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PR351942



12 May 2021

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

Via email: regorgs@roc.gov.au

Dear Mr Bielecki,

E2021/78 - CEPU Electrical, Energy & Services Division (EE&S Division) – Tasmanian Branch – request for an election to fill a vacancy caused by insufficient nominations

With reference to the above, I attach:

- *Amended* prescribed information for an election as required by 189(1) of the *Fair Work (Registered Organisations) Act 2009 (the Act)* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009 (the Regulations)*;

On 15 April 2021, Tasmanian Branch Secretary of the EE&S Division, Michael Anderson, lodged a request that the Registered Organisations Commission (ROC) arrange for an election to be conducted by the Australian Electoral Commission (AEC) to fill the office of Divisional Branch State Councillor – Northern Section, an office which had not been filled at the 2019 quadrennial elections.

In lodging this request, the table at the bottom of Annexure A of the prescribed information was omitted. The National Governance Officer, Annette Moran, spoke to Sophie Wong from the ROC on 11 May 2021 about this matter and was advised to lodge an amended prescribed information which now includes the “important dates” part of Annexure A and is attached to this correspondence.

Please accept my apologies for the omission of this part of Annexure A. If you have any questions please contact Michael Anderson on 03 6228 0098 or the Governance Officer, Annette Moran, at this office.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Allen Hicks', written in a cursive style.

Allen Hicks
DIVISIONAL SECRETARY

AMENDED PRESCRIBED INFORMATION FOR AN ELECTION in accordance with Section 189 Fair Work (Registered Organisations) Act 2009 and Regulation 138 Fair Work (Registered Organisations) Regulations 2009

I, Allen Hicks, being the Divisional Secretary of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, Electrical, Energy and Services Division (EE&S Division), make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Tasmanian Branch of the EE&S Division.
2. The following information is being lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act);
3. the election that is required is set out in the table in Annexure A;
4. the election that is required is for the EE&S Division Tasmanian Branch:
 - a. the office of Divisional Branch - State Councillor – Northern Section;
5. a copy of the request for the AEC to conduct the election is attached;
6. no rule alterations are pending that will impact the election; and
7. this statement is lodged at least 2 months before nominations open for the election.



Signed: _____

Allen Hicks

Dated:12 May 2021

]

ANNEXURE A

- Election that is required:

Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
Divisional Branch - State Councillor	1	DVS	<i>Insufficient nominations</i>	Financial Members of the Northern Section <i>(rule 15.10; 15.19.18)</i>

- **IMPORTANT DATES:**

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	<i>At a time to be determined by the Divisional Branch State Council in conjunction with the AEC (Section B – rule 15.17.2)</i>	
Nominations CLOSE	<i>At a time to be determined by the Divisional Branch State Council in conjunction with the AEC (Section B – rule 15.17.2)</i>	
Roll of Voters cut off date	<i>7 days before the date of nominations open (Section B - rule 15.19.7)</i>	