

From: Anthea Featherstone [mailto:Anthea.Featherstone@aec.gov.au]
Sent: Tuesday, 7 March 2017 3:42 PM
To: Pat Rogers
Cc: Orgs; Industrial Elections
Subject: SK - Attention Branch Secretary - Post Election Report - CEPU QLD ETU Divisional Branch
Coca Cola Sub-Branch Vacancy Election E2016/263 [SEC=UNCLASSIFIED]

Mr Peter Simpson
Branch Secretary
CEPU QLD Electrical Division

**Post Election Report For: Communications, Electrical, Electronic, Energy,
Information, Postal, Plumbing and Allied Services Union of Australia
Election E No 2016/263**

I refer to the above election for your organisation.

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

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

If the attached report identifies a rule that was difficult to interpret or apply, you should forward your response to the AEC by email to 'industrial.elections@aec.gov.au' 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 2009* requires an organisation or branch to publish a notice on its website 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.

Anthea Featherstone
Returning Officer

**Anthea Featherstone | Manager A/g
Industrial and Commercial Elections QLD**
North Lakes Area Office | QLD Divisions
Australian Electoral Commission
T: (07) 3049 2130 | M: 0401 140 672



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7 March 2017

Post-election Report

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australian – QLD Electrical Divisional Branch – Coca Cola Sub-Branch - Vacancy Election E2016/263

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Election(s) Covered in this Report

Election Decision No/s: E2016/263

Rules

Rules used for the election: 128V: Incorporates the alterations certified on
11/08/2016 in matter R2016/115

Rules difficult to apply/interpret: Nil
Module Rule reference 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

Other Matters

Nil

Attachments

- 1) Declaration of Results for Uncontested Offices – QLD

Anthea Featherstone
Returning Officer

7 March 2017

**Communications, Electrical, Electronic, Energy, Information, Postal,
Plumbing & Allied Services Union
Queensland Electrical Divisional Branch Coca Cola Sub-
Branch E2016/263**

Declaration of Results for Uncontested Offices

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.

Coca-Cola Sub-Branch

Sub-Branch Secretary

Candidates

VERHOEVEN, Serge

Delegate to Divisional Branch Conference

Candidates

VERHOEVEN, Serge

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



Anthea Featherstone
Returning Officer

7 March 2017



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

(E2016/263)

MR ENRIGHT

MELBOURNE, 9 NOVEMBER 2016

Arrangement for conduct of election.

[1] On 7 November 2016 the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (‘the Division’) lodged with the Fair Work Commission prescribed information in relation to an election to fill casual vacancies in the following non-office positions:

Queensland Divisional Branch

Delegate to Divisional Branch Conference from
the following Sub-Branch:

Coca Cola Sub-Branch (1)

Coca Cola Sub-Branch

Sub-Branch Secretary (1)

[2] The Division included with its prescribed information a request under section 187 of the *Fair Work (Registered Organisations) Act 2009*, in respect of both positions.

[3] The Division also drew attention to the lateness of lodgement of the prescribed information. It expressed the lateness in relation to the requirement of sub-rule 16.3.2 that elections to fill a casual vacancy be commenced within six months of the casual vacancy arising. It explained the circumstances of the lateness, being a failure by the Branch to notify the national office of the former incumbent having ceased to be a member of the Union until the week before lodgement. The vacancy arose, according to the membership record extract provided, on 1 February 2016.

[4] At the same time, the declaration stated that the prescribed information was “lodged at least 2 months before nominations open”. This appears to have been based on a request that the date and time for the opening of nominations be determined by the Returning Officer. Accordingly, the Division did not include a request that, pursuant to sub-section 189(2), a later day for lodgement be allowed.

[5] The two submissions are in some tension and I consider it appropriate to clarify the situation regarding lateness and the prescribed day.

[6] Regulation 138(3) defines the prescribed day as “the day occurring 2 months before the first day when a person may, under the rules of the organisation or branch, become a candidate in an election.” A key phrase here is “under the rules”. Whatever else it may mean, it may also be read as meaning where the rules specify, or permit to be identified, a day on which nominations may open, for the purposes of calculating the prescribed day.

[7] Since elections are considered to commence with the opening of nominations, sub-rule 16.3.2 may be taken to mean that the very latest day that nominations shall open shall be the day six months after the casual vacancy arises. If the casual vacancy is considered to have arisen on 1 February 2016, then the very latest day for nominations to have opened would have been 1 August 2016. Thus, in the ordinary course, the very latest day that could have represented a prescribed day for lodgement would have been 1 June 2016. Thus the fact that nominations may open two months after the actual date of lodgement on 7 November appears irrelevant for, in this case, the rules enable an earlier lodgement date, that coincides with the latest prescribed day permissible, to be calculated.

[8] There is nothing in the Act that requires a request for the allowance of a later day for lodgement to be made but there must be some basis for deciding to so allow. In this case I find the Division’s explanation for the lateness and that it has taken steps to avoid the problem in the future a reasonable basis for allowing a later day for lodgement, and I so allow.

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



DELEGATE OF THE GENERAL MANAGER

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From: KELLETT, Stephen
Sent: Wednesday, 9 November 2016 8:44 AM
To: 'Annette Moran'
Subject: FW: Election - CEPU, Electrical, Energy and Services Division - Queensland Branch - E2016/263 - decision

Dear Annette,

Please see attached a copy of the Delegate's decision in relation to the above.

Yours faithfully

STEPHEN KELLETT
Regulatory Compliance Branch
FAIR WORK COMMISSION

80 William Street
EAST SYDNEY NSW 2011

(ph) (02) 6746 3283
(mob.) 0429 462 979
(email) stephen.kellett@fwc.gov



CEPU ELE QLD
E2016 263 Decision.r

From: KELLETT, Stephen
Sent: Wednesday, 9 November 2016 8:39 AM
To: 'Industrial Elections'
Subject: Election - CEPU, Electrical, Energy and Services Division - Queensland Branch - E2016/263 - decision

Dear Electoral Officer,

Please see attached a copy of the Delegate's decision in relation to the above. A copy of the current rules for the Division may be accessed at

<https://www.fwc.gov.au/documents/documents/organisations/registered-orgs/128v/current-rb-128vele-r2016-183-effect-2016-09-13.pdf>

Yours faithfully

STEPHEN KELLETT
Regulatory Compliance Branch
FAIR WORK COMMISSION

80 William Street
EAST SYDNEY NSW 2011

(ph) (02) 6746 3283
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CEPU ELE QLD
E2016 263 Decision.r

From: Annette Moran [<mailto:Annette@etuaustralia.org.au>]

Sent: Monday, 7 November 2016 11:44 AM

To: Orgs

Subject: ON CMS - E2016/263 - CEPU - EE&S Div QLD Br - s187 FW (RO) Act request for AEC to conduct an election

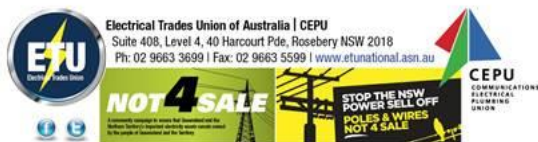
Please find attached:

- a request under s187 of the Fair Work (Registered Organisations) Act 2009 for the AEC to conduct an election for positions other than offices to fill casual vacancies;
- reg 138 Statement with respect to this election including a screenshot of the membership register evidencing the resignation of the member;
- s189 prescribed information for this election.

Kind regards, Annette Moran

Annette Moran
Governance & Compliance Officer

Please note: I work Mondays to Thursdays – if you require assistance on a Friday please contact the office.



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Scott Miller_screen
shot.pdf



s189 Prescribed
Information_CEPU EIStatement_s189 CEPIFWC_Casual Vacancy



Reg 138



161107 Ltr fr AH to
CEPIFWC_Casual Vacancy



Electrical Trades Union of Australia

Proud to be Union

7 November 2016

Mr David Dale
The Principal Advisor – Regulatory & Compliance Branch NSW
Fair Work Commission
Level 8, Terrace Towers
80 William St
EAST SYDNEY NSW 2011

Request for an election pursuant to s187 of the *Fair Work (Registered Organisations) Act 2009 (the Act)*

Dear Mr Dale

Please be advised that the CEPU Electrical, Energy and Services Division, is required to conduct an election to fill a casual vacancy for a Divisional Sub Branch delegate from the Coca Cola Sub branch of the Queensland Divisional Branch Conference of the CEPU Electrical, Energy and Services Division. An election is also required to fill a casual vacancy for the position of Divisional Sub Branch Secretary of the Coca Cola Sub Branch of the Queensland Branch.

Accordingly, pursuant to s.187 of the Act, the Division requests that the Fair Work Commission arrange for the Australian Electoral Commission to conduct an election to fill the casual vacancies for the Divisional Branch Conference and the Sub Branch.

This election is necessary as a member from the Coca Cola Sub Branch Queensland has resigned from both his position as a Branch Conference delegate from the Coca Cola Sub branch and as Sub Branch Secretary of the Coca Cola Sub Branch.

I am aware that pursuant to Section B rule 16 of the CEPU rules, an election to fill a casual vacancy in a sub branch must occur within 6 months of the vacancy occurring. Unfortunately, on this occasion the outgoing occupant of the office vacated the office in excess of 6 months ago. I apologise for what has been a break-down in communication in the organisation caused by administrative staff in the branch failing to report the cessation of membership of the delegate to the national office until last week.

The situation in this instance is a fairly rare one where an elected non office holder ceased to hold positions within 12 months of an election, triggering an election to fill a casual vacancy. In fact, I have never come across it. However, to ensure this break down in communication does not happen again, I have now put in place a system for regularly reminding branches to report such changes to the national office. Of course, once outside the 6 month window, this problem would not arise.

Pursuant to s.189 of the Act, I have attached (Attachment A) the prescribed information.

Thank you for your assistance with this matter.

Yours faithfully

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

Allen Hicks
Divisional Secretary


Prescribed information for elections pursuant to the
Fair Work (Registered Organisations) Act 2009 s.187; s.189
& regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009*

STATEMENT

I, Allen Hicks, of level 4, Suite 408, 30-40 Harcourt Parade, Rosebery, NSW 2018
state as follows:

1. I am the Divisional Secretary of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, Electrical, Energy and Services Division (CEPU, EE&S Division).
2. I am an officer authorised to make a statement pursuant to regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009* with respect to the filling of a casual vacancy on the Divisional Branch Conference and on the Coca Cola Sub Branch of the Queensland Branch of the CEPU EE&S Division.
3. The following information is lodged under s.189 of the *Fair Work (Registered Organisations) Act 2009*.
4. The elections that are required are set out in attachment A.
5. The resignation letter is attached for the casual vacancy.
6. This statement is lodged at least 2 months before nominations open for the election below.

Dated: 7 November 2016



Allen Hicks
DIVISIONAL SECRETARY

PRESCRIBED INFORMATION FOR ELECTIONS in accordance with
s.189 *Fair Work (Registered Organisations) Act 2009* and
regulation 138 *Fair Work (Registered Organisations) Regulations 2009*

CEPU Electrical Energy & Services Division, QUEENSLAND BRANCH
s.187 Election to fill a Casual Vacancy – November 2016

a. Name of the position for which an election is required

- Divisional Sub Branch delegate from the Coca Cola Sub Branch to the Queensland Divisional Branch Conference of the CEPU Electrical, Energy & Services (EE&S Division);
- Divisional Sub Branch Secretary – Coca Cola Sub Branch, Queensland

b. Reason for the election

A member has resigned from the organisation creating a vacancy on the Divisional Branch Conference from the Coca Cola Sub Branch and a vacancy for Sub Branch Secretary of the Coca Cola Sub Branch to be filled by a casual vacancy election.

c. Offices or positions with the same name and the number of offices:

N/A

d. Electorate

The positions to be elected pursuant to s.187 are to be elected by the following electorate:

- Divisional Sub Branch delegate All financial members of the Coca Cola Sub Branch to Divisional Branch Conference representing the Coca Cola Sub Branch
- Divisional Sub Branch Secretary, All financial members of the Coca Cola Sub Branch of the Coca Cola Sub Branch

e. Date of commencement and expiration of nomination period

As this is an election to fill casual vacancies in the Coca Cola Sub Branch and on the Divisional Branch Conference of the CEPU EE&S Division, Queensland Branch, the Division requests that the commencement and closure of the nominations for the election be held at a date and time to be determined by the returning officer from the AEC.

f. Day on which the roll of voters is to close

As this is an election to fill casual vacancies in the Coca Cola Sub Branch and on the Divisional Branch Conference of the CEPU EE&S Division, Queensland Branch, the Division requests that the roll of voters for the election close at a date and time to be determined by the returning officer from the AEC.

g. Voting system

This is a direct election determined by a secret ballot of the financial members of the Divisional Sub Branch members of the Coca Cola Sub Branch.