



7 August 2018

Mr David Mier
Assistant Divisional Secretary
Communications, Electrical, Electronic, Energy, Information, Postal,
Plumbing and Allied Services Union of Australia - Electrical, Energy and
Services Division
edno@nat.cepu.asn.au

Cc: National office

Dear Mr Mier

Organisation must respond to the post-election report of the Australian Electoral Commission: E2017/109

On 11 July 2018 the Registered Organisations Commission (the ROC) received a post election report from the Australian Electoral Commission (AEC) for election E2017/109 dated 11 July 2018. The AEC will have also provided the report to the organisation under section 197 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

The report identifies rules that were difficult to interpret or apply, in particular rules 9.5.2 and 15.18. This letter serves as a reminder of the obligations imposed on the organisation or branch as a consequence of the AEC's report. If a response has already been sent to the AEC and made available to all members please disregard this letter.

A notice must be published on the organisation's website

The organisation or branch must publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regs 141(4) and (5)).

A written response must be provided to the AEC

A written response must be provided to the AEC within 30 days of receipt of the report. The organisation's response must include whether the organisation or branch intends to take action and if so what action the organisation or branch intends to take (s198(2)).

Extract of report must be made available to members

The organisation or branch must make the section of the report relating to the difficult rules available to its members (s198(3)). This extract from the report must be made available to the members before or at the same time as the organisation's response is made available to members.

Written response must be made available to members

A copy of the organisation's response to the AEC must be made available to members either:

- within 30 days after the response is given to the AEC, or
- published in the next edition of the organisation or branch journal (s198(5))

Subsection 198(6) and regulation 142 prescribe ways in which the relevant extract and the copy of the response can be made available to members. These do not limit the ways in which they can be made available to members. The organisation will comply if it does all of the following:-

- publish the report extract and the copy of the response in the next edition of the organisation or branch's journal; and
-
- within 30 days of giving the response to the AEC:
 - lodges with the ROC a copy of the relevant extract and response, together with a declaration that a copy will be provided to any member who so requests; and
 - give notice in the next edition of the organisation or branch's journal, or an appropriate newspaper, that a copy of the relevant extract and response are available on request to each member free of charge; and
- publish the relevant extract on the website within 14 days after receiving the report, and publish the response on the website within 14 days of giving the response to the AEC (reg 142(2)).

Penalties may apply

If the organisation or branch does not:

- respond to the AEC within 30 days,
- make the extract of the report relating to the rules available to members no later than the organisation's response is made available to members, or
- make the organisation's response available to members within 30 days or in the next edition of the journal,

the organisation may face penalties under the RO Act. Each requirement listed above is a civil penalty provision that may result in fines for the organisation

As noted above, if the response and report have already been made available to members and the AEC, please disregard this letter. If you have any questions in relation to these obligations please contact the ROC for assistance by email to regorgs@roc.gov.au.

If the organisation or branch decides to alter its rules in response to the AEC's report

If the organisation or branch decides to alter its rules in response to the AEC's report, the ROC is NOT able to provide advice and assistance regarding draft alterations or the processes required to make the alterations. Rule alterations remain a function of the Fair Work Commission.

Yours faithfully

Carolyn Moloney

Registered Organisations Commission

11 July 2018

Post-election Report

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, (CEPU) - Electrical, Energy and Services Division – E2017/109

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Election(s) Covered in this Report

Election Decision No/s: E2017/109

Rules

Rules used for the election:	([128V-ELE: Incorporates alterations certified on 4 April 2018 in matter R2017/201] (replaces 4 April 2017 [R2017/37] version)
Rules difficult to apply/interpret:	<p>The office was created by a determination in accordance with sub-rule 9.5.1 on 11 April 2017, and the term of office, in accordance with sub-rule 9.5.4, would end at the next quadrennial election (2019) following the filling of the office.</p> <p>Rules not clear on how to conduct the election. Rule 9.5.2 refers to filling the office of Assistant Divisional Secretary “<i>where the position is to commence prior to the next Quadrennial Election by collegiate election of the Divisional Council conducted in accordance with rule 15.18.</i>”</p> <p>However rule 15.18 does not list this office, making it difficult for the Returning officer to apply and interpret rules and conduct the election.</p> <p>The office is listed under Rule 15.19 which refers to a direct election to fill this office when it is a quadrennial Scheduled election.</p> <p>Rules regarding election for this particular office should be amended to reflect whether it is to be either via a direct or a collegiate method and outline the process clearly.</p>
Model Rule reference (if any)	Please refer to the AEC’s Model Rules Guide for further assistance. The link appears here

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: None


Other irregularities identified, and action taken: None

Other Matters

None

Attachments

- 1) Declaration of results for Uncontested Offices – E2017/109



Noopur Madan
Returning Officer

11 July 2018

**Communications, Electrical, Electronic, Energy, Information, Postal,
Plumbing and Allied Services Union of Australia
Electrical, Energy & Services Division
DECLARATION OF RESULTS - E2017/109
Uncontested Offices**

Scheduled Election

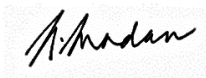
The Results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

Assistant Divisional Secretary (1)

Candidates

No Nominations Received

As no nominations were received, I declare no candidate elected.



Noopur Madan
Returning Officer
Australian Electoral Commission
22/06/2018



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 (E2017/109)

MR ENRIGHT

MELBOURNE, 9 MAY 2017

Arrangement for conduct of election.

[1] On 13 April 2017 the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia lodged with the Fair Work Commission prescribed information in relation to an election for the following new office:

Assistant Divisional Secretary

[2] The office was created by a determination in accordance with sub-rule 9.5.1 on 11 April 2017, and the term of office will, in accordance with sub-rule 9.5.4, end at the next quadrennial election occurring following the filling of the office.

[3] I am satisfied that an election for the above-named 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*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

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From: KELLETT,Stephen
Sent: Tuesday, 9 May 2017 11:33 AM
To: 'Annette@etuaustralia.org.au'
Subject: FW: Election - CEPU, Electrical, Energy & Services Division - E2017/109 - granted
[SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Annette,

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

Yours sincerely

STEPHEN KELLETT
Financial Reporting
Tel: (02) 6746 3283
Email: stephen.kellett@roc.gov.au

The Registered Organisations Commission
Level 13, 175 Liverpool Street, Sydney NSW 2000
www.roc.gov.au



Australian Government
Registered Organisations Commission



E2017 109
Decision.pdf

From: KELLETT,Stephen
Sent: Tuesday, 9 May 2017 11:31 AM
To: 'industrial.elections@aec.gov.au'
Subject: Election - CEPU, Electrical, Energy & Services Division - E2017/109 - granted
[SEC=UNCLASSIFIED]

UNCLASSIFIED

Dear Electoral Officer,

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

Yours sincerely

STEPHEN KELLETT
Financial Reporting
Tel: (02) 6746 3283
Email: stephen.kellett@roc.gov.au

The Registered Organisations Commission
Level 13, 175 Liverpool Street, Sydney NSW 2000
www.roc.gov.au



Australian Government

Registered Organisations Commission



E2017 109
Decision.pdf

From: KELLETT, Stephen
Sent: Wednesday, 26 April 2017 4:20 PM
To: 'Industrial Elections'
Subject: Election - CEPU - Electrical Division - prescribed information - E2017/109

Dear Electoral Officer,

Please see attached documentation in relation to the above, including a statement of prescribed information.

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



s189 Prescribed
Information_CEPU EI



Reg 138



170413 Ltr fr DM to
EES FWC_Request Electioi

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

Sent: Wednesday, 26 April 2017 4:05 PM

To: KELLETT, Stephen

Subject: RE: Election - E2017/109 - Assistant Divisional Secretary - confirmation requested

Hi Stephen

- 1) the date in the covering letter requesting the FWC arrange for the AEC to conduct an election is a mistake and should read 11 April 2017 not 11 August 2017; and
- 2) it is the Division's view that sub rule 8.3 permits the Divisional Executive to create the additional office because in between meetings of the Divisional Council, the Executive acts with the power of the Council.

kind regards Annette

From: KELLETT, Stephen
Sent: Monday, 24 April 2017 9:43 AM
To: 'Annette@etuaustralia.org.au'
Subject: Election - E2017/109 - Assistant Divisional Secretary - confirmation requested

Dear Annette,

I refer to the correspondence, received in relation to the above election on 13 April 2017, which accompanied the statement of prescribed information (see attached). I have two questions and seek the Division's advice.

(1) What was the correct date on which the Divisional Executive resolved to create the additional office?

(2) Is it the Division's view that sub-rule 8.3, or any other relevant rule, permits the Divisional Executive to create the additional office in place of the Divisional Council which is referred to by name in rule 9.5.1? If so, please provide such advice as would assist the consideration of this question.

Please telephone me to discuss if you wish.

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



170413 Ltr fr DM to
FWC_Request Election

From: Annette Moran [mailto:Annette@etuaustralia.org.au]
Sent: Thursday, 13 April 2017 5:13 PM
To: Orgs
Cc: Michael Wright; David Mier
Subject: KELLETT CEPU Electrical, Energy & Services Division - Request for FWC for AEC to Conduct an Election

Please find attached:

- letter regarding CEPU request for an election;
- regulation 138 statement; and
- s189 prescribed information

Kind regards,

Annette Moran
CEPU National 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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s189 Prescribed
Information_CEPU



Reg 138
EI.statement_CEPU



170413 Ltr fr DM to
EE&FWC_Request Election



Electrical Trades Union of Australia

Proud to be Union

13 April 2017

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

Dear Mr Vale,

Re: Request for an election

I refer to the above and enclose by way of lodging:

- Statement pursuant regulation 138 of the Act
- Prescribed information pursuant to s.189(1) and regulation 138 of the Act.

On 11 August 2017 the Divisional Executive resolved, pursuant to Section B rule 9.5.1, to create an additional office of Assistant Divisional Secretary. The Section B rules of the CEPU provide for the filling of such office at rule 9.5.2, which provides:

“9.5.2 Any office of Assistant Divisional Secretary created pursuant to rule 9.5.1 shall be filled:

9.5.2.1 at the next Quadrennial Election; or

9.5.2.2 where the position is to commence prior to the next Quadrennial Election by collegiate election of the Divisional Council conducted in accordance with rule 15.18.”

As this office is to commence prior to the next quadrennial election, Section B rule 9.5.2.2 obtains, meaning that the office is to be filled by a collegiate election of the Divisional Council.

Accordingly, pursuant to ss.182 and 189 of the Act, the Division requests that the Fair Work Commission arrange for the Australian Electoral Commission to conduct an election to fill the additional office.

Please do not hesitate to contact Ms Annette Moran of our office should you wish to discuss. Thank you for your assistance with this matter.

Yours faithfully

A handwritten signature in black ink, appearing to read 'David Mier', is written over a light blue horizontal line.

David Mier
Assistant Divisional Secretary

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

STATEMENT

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

1. I am the Assistant 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 the office of an additional Assistant Divisional Secretary.
3. An election is required for the office specified in attachment A.
4. This information is lodged under s.189 of the *Fair Work (Registered Organisations) Act 2009*.

Dated: 13 April 2017



David Mier
ASSISTANT DIVISIONAL SECRETARY

Fair Work (Registered Organisations) Act & Regulations 2009

CEPU Electrical Energy & Services Division, Divisional Council
Collegiate Election – April 2017
Prescribed information pursuant to s189(1) & regulation 138

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

- Assistant Divisional Secretary

b. Reason for the election

The organisation has created an additional office of Assistant Divisional Secretary to be filled by a collegiate election of the Divisional Council.

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

N/A

d. Electorate

The Office elected pursuant to s.189(1) is to be elected by the following electorate:

- The Divisional Council

e. Date of commencement and expiration of nomination period

As this is an election to fill an additional office of Assistant Divisional Secretary, 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 an additional office of Assistant Divisional Secretary, 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 collegiate election determined by a secret ballot of the Divisional Councillors.