



FAIR WORK
COMMISSION

24 November 2014

Mr Michael O'Connor
National Secretary
Construction, Forestry, Mining and Energy Union
148-152 Miller Street
WEST MELBOURNE VIC 3003

Dear Mr O'Connor

Arrangements for the conduct of an Election (E2014/252)

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

The Fair Work Commission is making arrangements, under subsection 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

Carolyn Moloney
Regulatory Compliance Branch, NSW
for Fair Work Commission



DECISION

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

Construction, Forestry, Mining and Energy Union (E2014/252)

MR ENRIGHT

MELBOURNE, 24 NOVEMBER 2014

Arrangement for conduct of election.

[1] On 19 November 2014, the Construction, Forestry, Mining and Energy Union lodged with the Fair Work Commission the prescribed information in relation to an election for the following offices, due to insufficient nominations at the previous election E2014/199:

National Executive Committee

National Executive Committee Member (Construction and General Division) (2)

[2] I am satisfied that an election for the abovenamed offices 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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MOLONEY, Carolyn

From: MOLONEY, Carolyn
Sent: Monday, 24 November 2014 11:28 AM
To: [REDACTED]
Subject: Decision for Election - CFMEU - additional National Executive Committee Members
Attachments: E2014_252 CFMEU National Exec Committee Member_previously unfilled_signed 24112014.docx

Dear Ms Read,

Please find attached a decision, issued today, to grant the requested election for 2 National Executive Committee Members from the Construction and General Division.

The original decision has been posted to Mr O'Connor and the Australian Electoral Commission will be notified about the decision today.

Kind regards,

CAROLYN MOLONEY
Assistant Adviser
Regulatory Compliance Branch

Fair Work Commission
Tel: 02 8374 6510
Fax: 02 9380 6990
carolyn.moloney@fwc.gov.au

Level 10, Terrace Tower, 80 William Street
East Sydney NSW 2011

www.fwc.gov.au

From: Rosalind Read [REDACTED]
Sent: Wednesday, 19 November 2014 2:24 PM
To: Orgs; VALE, David
Subject: Prescribed Information in relation to an Election - CFMEU - additional National Executive Committee Members

Please find attached a prescribed information in relation to an election required to be held. Please do not hesitate to contact me in relation to this matter.







Regards, Rosalind Read

Rosalind Read
Senior National Legal Officer
CFMEU - FFPD
148 - 152 Miller Street
West Melbourne, VIC 3003

[REDACTED]

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FairWork
Commission

Copy of Signed Decision

Title of Matter: Application/Notification by Construction, Forestry, Mining and Energy Union
Section: s.189(1) RO Act - Notification of elections for office
Subject: Collegiate election for Additional National Executive Members (2) from C&G Division - offices unfilled in last election, E2014/199.
Matter Number(s): E2014/252

Dear Australian Electoral Commissioner via the Electoral Officer

Under subsection 189 of the *Fair Work (Registered Organisations) Act 2009*, please arrange for the conduct of the above election.

A copy of the Delegate's decision is attached for your information.

The relevant rules can be accessed via the [website](#).

Contact: Mr Michael O'Connor of the organisation, as per the prescribed information.

Please send the declaration(s) and post election report to the Fair Work Commission at orgs@fwc.gov.au.

Inquiries:

Any inquiries relating to this matter are to be directed to Carolyn Moloney through orgs@fwc.gov.au.

24 NOVEMBER 2014

MOLONEY, Carolyn

Subject: FW: Prescribed Information in relation to an Election - CFMEU - additional National Executive Committee Members
Attachments: CFMEU - Nat Positions - Prescribed Info 19-11-14.pdf

From: Rosalind Read [REDACTED]
Sent: Wednesday, 19 November 2014 2:24 PM
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Regards, Rosalind Read

Rosalind Read
Senior National Legal Officer
CFMEU - FFPD
148 - 152 Miller Street
West Melbourne, VIC 3003

[REDACTED]

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E2014/252

FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009

Section 189 – Arrangement for Conduct of Election

**Statement Pursuant to Regulation 138 of the
Fair Work (Registered Organisations) Regulations 2009**

I, Michael O'Connor, National Secretary, Construction, Forestry, Mining and Energy Union, of 148-152 Miller Street, West Melbourne state that the information annexed to this statement is being lodged in accordance with subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009*.

Signed:



Date: 19 November 2014

FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009
AND
FAIR WORK (REGISTERED ORGANISATIONS) REGULATIONS 2009

Prescribed Information in Relation to an Election

The following prescribed information is provided pursuant to s.189(1) of the *Fair Work (Registered Organisations) Act 2009* and Regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009*.

1. Names and Number of Offices (Regulation 138(1)(a) and (c))

- 1.1 The name and number of each office in respect of which an election is required is as follows:
- (a) Additional National Executive Committee Members (Construction and General Division)
 - (b) Two Positions.

2. Rules affecting the Elections

- 2.1 Rule 16(vii) which deals with casual vacancies of National Executive Committee members generally states that they are to be elected in accordance with rule 17(iii) of the CFMEU Rules. While this election is not strictly for a casual vacancy, it would be unusual if widely different procedural rules applied in relation to casual vacancies as opposed to ordinary vacancies.
- 2.2 Rule 14(1) of the CFMEU Rules states that Additional National Executive Committee Members are to be elected “by and from” their respective Divisional Conferences, indicating that the Divisional Rules governing elections from Divisional Conferences, are relevant to elections for these positions.
- 2.3 Rule 9 of the Construction & General Division Rules, which deals with election of other offices from the Divisional Conference, refers to the conduct of the election in accordance with Rule 17 of the CFMEU Rules.
- 2.4 Consequently, taking into account such changes as are appropriate to the circumstances of the election in question, the Rules require that the election of Additional National Executive Committee Members should be conducted in accordance with Rule 17(iii) which then refers to the Rules for the conduct of Divisional Branch Elections, with the

necessary changes being made. Rule 38 of the Construction & General Division Rules deals with the conduct of Divisional Branch Elections.

3. Reasons for Election (Regulation 138(1)(b)), and Regulation 138(1)(d)(iv)

A vacancy arises in relation to each of the positions as no nominations were received for those positions in the election which was held in E2014/199. Pursuant to Regulation 138(1)(d)(iv) it is appropriate to call for the conduct of an election.

The vacant offices will commence on 2 January 2015 (rule 38(b) of the CFMEU, Construction & General Division Rules) it is desirable in the interests of the effective governance of the Union to attempt to fill these vacant positions before the commencement of the term of office.

4. Electorate (Regulation 138(1)(d))

Rule 14(i) of the CFMEU Rules provides that the offices of the Additional National Executive Committee Members (Construction and General Division) are elected by and from the Construction and General Division Divisional Conference.

5. Open and Close of Roll and Nominations

5.1 Close of Roll (Regulation 138(1)(f))

(a) Rule 38(p) of the Construction and General Division Rules provides that the books shall be deemed closed 8 days before the date on which nominations open; and

(b) Consequently, the Roll is to close on **22 November 2014**. However we note that this election is a collegiate election and as the members of the college are already elected, the practice of the AEC is to treat the roll as closed as at the conclusion of the election of the members of the relevant college.

5.2 Opening and Close of Nominations (Regulation 138(1)(e))

For the reasons noted above, and consistent with Rule 17(iii) of the CFMEU Rules, and Rule 38 of the Construction & General Division Rules the Rules, subject to necessary changes, allow that nominations **open on 29 November 2014 and close on 19 December 2014**

6. Voting System

6.1 The voting system for each of the offices is a collegiate voting system.