



24 December 2019

Michael O'Connor
National Secretary & (FFPD) Divisional Secretary
Construction, Forestry, Maritime, Mining and Energy Union
Sent via email: moconnor@cfmeunat.org

cc: Queensland Branch queries@qld.cfmeu.asn.au, Tasmania Branch office@tas.cfmeu.asn.au

Dear Michael O'Connor,

Reminder of actions required when persons elected to office

The Australian Electoral Commission has provided the Registered Organisations Commission (the ROC) a declaration of results for the election of uncontested offices in matter E2018/31. This letter is a reminder of certain obligations imposed on organisations and on persons elected to office.

A notice must be published on the organisation's website

The organisation or branch must, as soon as practicable after receiving the post-election report, 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 regulation 141 of the Fair Work (Registered Organisations) Regulations 2009).

Holders of office required to undertake approved training

Section 293K of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires each officer with financial management duties to undertake approved training that covers those duties within 6 months after the person begins to hold office. Please ensure that relevant officers undertake approved training within the required timeframe. Please also ensure that all new holders of office are advised of their obligations to make disclosures regarding remuneration, non-cash benefits and material personal interests, the details of which are provided for in the RO Act.

Organisation must notify the Commission of changes

Also, section 233(2) of the RO Act requires that an organisation must notify the Commission **within 35 days of any changes** to the holders of office in the organisation. **If there are no changes a notification is not required.** If the election has resulted in **any changes** to the holders of office, the Construction, Forestry, Maritime, Mining and Energy Union must notify the Commission of these changes. In particular, please advise:

1. Person(s) who have ceased to hold office:
 - the name of the office vacated;
 - the date of the change of office holder; and
 - the name of the person vacating the office.

2. Person(s) who have commenced to hold office:
 - the name of the office now held;
 - the date of the change of office holder;

- the name of the person now holding the office;
- the postal address of the person (generally the postal address of the organisation); and
- the occupation of the person now holding the office.

The notification must include a declaration by the Secretary (or other prescribed officer) that the information is a correct statement of the changes made. A template notification of changes, which may assist you, is attached. If any change does not apply until a date in the future, you do not need to notify until then (e.g. AGM, 1 January, 2nd Monday in March). If you have already lodged this information, please disregard this reminder.

Yours sincerely

Registered Organisations Commission

Construction, Forestry, Maritime, Mining and Energy Union

Western Australia Branch

DECLARATION OF RESULTS - E2018/31

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:

State Officers, West Australian Branch

State Secretary (1)

Candidates

BUCHAN Mike

State Assistant Secretary (1)

Candidates

CAIN Christy Cain

State President (1)

Candidates

BUSSON Greg Busson

State Senior Vice President (1)

Candidates

BENKESSE Robert

State Joint Vice President (3)

Candidates

EVANS Adrian

MACKRELL Aaron

SANFORD Robert

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

Liz Houlton

Liz Houlton
Returning Officer
Telephone: 08 6363 8011
Email: waelections@aec.gov.au
08/11/2019

Construction, Forestry, Maritime, Mining and Energy Union

DECLARATION OF RESULTS - E2018/31 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:

Tasmania Branch

State Secretary (1)

Candidates

BULL Alisha

State Assistant Secretary (1)

Candidates

HASSETT Richard

State President (1)

Candidates

MCLEAN Scott

State Senior Vice President (1)

Candidates

GALE Ricky Maxwell

State Joint Vice President (4)

Candidates

CAMPBELL Jason

HARKINS Kevin

MILNER Nathan

No further Nominations were accepted

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



Jeff Webb
Returning Officer
19/09/2019

Construction, Forestry, Maritime, Mining and Energy Union
South Australia Branch
DECLARATION OF RESULTS - E2018/31
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:

South Australia Branch

State Secretary (1)

Candidate

FENNEY Colin

State Assistant Secretary (1)

Candidate

KIRNER David

State President (1)

Candidate

NEWLYN Jamie

State Senior Vice President (1)

Candidate

COATES Brad

State Joint Vice Presidents (3)

Candidates

CLOTHIER Clem

STAPLETON Derek M

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



Barbara Kekes
Returning Officer
Telephone: 08 8237 6555
Email: saelections@aec.gov.au
29/08/2019

Construction, Forestry, Maritime, Mining and Energy Union

Queensland Branch

DECLARATION OF RESULTS - E2018/31 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:

Queensland Branch

State Secretary (1)

Candidates

RAVBAR Michael

State Assistant Secretary (1)

Candidates

INGHAM Jade

State President (1)

Candidates

SMYTH Stephen

State Senior Vice-President (1)

Candidates

MINERS Jason

State Joint Vice-President (3)

Candidates

BURFORD Andy

HUGHES Mitch

KUPSCH Royce

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



Steve Gillespie
Returning Officer
Telephone: 07 3049 2132
Email: qldelections@aec.gov.au
05/12/2019

17 December 2019

Post-Election Report

**Construction, Forestry, Maritime,
Mining and Energy Union**
Scheduled election
E2018/31

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Election(s) Covered in this Report

Organisation: Construction, Forestry, Maritime, Mining and Energy Union
Election: Scheduled
Election Decision No/s: E2018/31

Rules

Rules used for the election: Construction, Forestry, Maritime, Mining and Energy Union [105N-FED: Incorporates alterations of 24 July 2019] [R2019/89] (replaces rulebook dated 27 March 2018 [D2017/5])
Construction and General Divisional Branches 05N-BWIU:
Incorporates alterations of 19 November 2018 [R2018/268] (replaces rulebook dated 27/9/2018 [R2018/229])

Rules difficult to apply/interpret: None

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website:

https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections

Roll of Voters

As there were no contested offices, no Roll of Voters was required for any branch.

Irregularities

Details of written allegations of irregularities,
and action taken by AEC: NIL

Other irregularities identified, and action taken: NIL

Other Matters

Returning Officer actions required (Section 193): No

Details:

This Election has been delayed due to discussions between CFMMEU and ROC regarding rule changes.

Signed



Chris Cox Returning Officer
Australian Electoral Commission
E: nswelections@aec.gov.au
P: 02 9375 6301
17 December 2019

Attachments

- A. Declaration of results for Uncontested Offices – QLD
- B. Declaration of results for Uncontested Offices – VIC
- C. Declaration of results for Uncontested Offices – TAS
- D. Declaration of results for Uncontested Offices – SA
- E. Declaration of results for Uncontested Offices - WA



16 September 2019

Michael O'Connor
National Secretary & (FFPD) Divisional Secretary
Construction, Forestry, Maritime, Mining and Energy Union
Sent via email: mdadmin@cfmeu.org

cc: Victoria Branch vicqueries@cfmeu.org

Dear Michael O'Connor,

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1. Person(s) who have ceased to hold office:
 - the name of the office vacated;
 - the date of the change of office holder; and
 - the name of the person vacating the office.

2. Person(s) who have commenced to hold office:
 - the name of the office now held;
 - the date of the change of office holder;
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Yours faithfully,

Astrid Glenister
Registered Organisations Commission

Construction, Forestry, Maritime, Mining and Energy Union

Victoria Branch

DECLARATION OF RESULTS - E2018/31 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:

Victoria Branch

State Secretary (1)

Candidates

SETKA John

State Assistant Secretary (2)

Candidates

STEVENS Shane

VARI Frank

State President (1)

Candidates

WILLIAMS Trevor

State Senior Vice President (1)

Candidates

EDWARDS Ralph

State Joint Vice President (4)

Candidates

BALL David

MACPHERSON Elizabeth Mary

RICHARDS Mark

SPERNOVASILIS Elias

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



Jeff Webb
Returning Officer
10/09/2019



AMENDING DECISION

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

Construction, Forestry, Maritime, Mining and Energy Union

(E2018/31)

MR ENRIGHT

MELBOURNE, 25 JULY 2019

Amendment of Decisions

[1] The Decision issued by the Delegate of the Registered Organisations Commissioner on 11 April 2018 [[2018] ROCD 65, PR351033] is amended as follows:

By deleting the offices listed under the heading “New South Wales Branch”.

[2] As a consequence, the Amending Decision issued on 25 March 2019 [[2018] ROCD 65, PR351179] is also amended as follows:

By deleting the words “*By deleting ‘(3)’ from the list of offices at paragraph [1] under New South Wales Branch State Joint Vice President and inserting in lieu: (4).*”

Reason for amendments

[3] On 25 July 2019 the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU) lodged with the Registered Organisations Commission a statement of prescribed information in relation to an election that had previously been granted but which had not yet commenced. The prescribed information amended the list of offices to be the subject of election, specifically, by removing the relevant offices of the New South Wales Branch.

[4] The amendment to the list of offices was made following the certification of rule alterations on 24 July 2019 by the Delegate of the General Manager of the Fair Work Commission (FWC).¹ The rule alterations provided that the State Officers in the New South Wales Branch would no longer be elected in the manner provided for the State Officers in the other Branches by Rule 48, but would be filled *ex officio* by the persons holding other particular offices in New South Wales. New Rule 48A identifies those other particular offices whose incumbents become the State Officers in the New South Wales Branch.

[5] The rule alterations were only recently made, and subsequent to the two Decisions already issued in relation to this election matter and referred to, respectively, in paragraphs [1] and [2] above.

¹ See [2019] FWCD 4886, PR710304

[6] As a consequence of the certification of the rule alterations, an election is no longer required in respect of the following offices in the New South Wales Branch:

State Secretary
State Assistant Secretary
State President
State Senior Vice-President
State Joint Vice-President (4)



DELEGATE OF THE COMMISSIONER

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CONSTRUCTION FORESTRY MARITIME MINING AND ENERGY UNION

25 JULY 2019

Mr Mark Bielecki
Commissioner
Registered Organisations Commission
GPO Box 2983
MELBOURNE VIC 3001

Dear Commissioner

AMENDED PRESCRIBED INFORMATION FOR ELECTIONS – E2018/31

I, Michael O'Connor, being the National Secretary of the Construction, Forestry, Maritime, Mining and Energy Union, make the following statement:

1. I am authorised to sign this statement containing amended prescribed information in respect of election matter **E2018/31**, being elections for State Branch officers (with the exception of New South Wales State Branch officers, as explained in paragraphs 4 and 5 below);
2. The following information is lodged under sub-section 189(1) of the *Fair Work (Registered Organisations) Act 2009*, and for the purposes of regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009*.
3. On 11 April 2018 and 25 March 2019 the Delegate of the Registered Organisations Commissioner issued decisions in respect of scheduled elections of office-bearers for various State Branches.
4. On 24 July 2019, the Fair Work Commission (FWC) issued decision **[2019] FWCD 4886** approving a rule alteration relating to the election of State Branch office-bearers in the state of New South Wales. The effect of this rule change is that certain offices of the New South Wales State Branch are filled, ex officio, by the holders of other particular offices in Divisional Branches in New South Wales so that no election is required for the relevant offices of the New South Wales State Branch. This decision from the FWC is attached as **Annexure A**.
5. The New South Wales State Branch offices to which this rule change applies are: State President, State Secretary, State Assistant Secretary, State Senior Vice President, and State Joint Vice-Presidents (4). A copy of the rule alteration, which sets out the filling of these offices, is attached as **Annexure B**.
5. The rule alteration does not affect the elections of the relevant remaining offices in the other State Branches that were the subject of the Delegate's earlier decisions, except insofar as the commencement of the elections has been delayed pending the certification of the rule alteration. The date and time for the opening and closing of nominations for those offices remain unchanged, and are in accordance with the previous statements of Prescribed Information that were lodged on 28 February 2018 and 17 April 2018.

6. This amended statement is being lodged before nominations open and as soon as possible following the certification of the rule alteration. Since this statement is intended to remove particular offices in the NSW Branch that were included in the previous statements, for which nominations will not be called for, the question of prescribed day may not apply. However, to the extent it is a relevant consideration it is also submitted that the information provided in the previous statements of prescribed information (which were lodged more than 2 months prior to the opening of nominations) remains unchanged and nominations for those offices are expected to open as soon as possible after the issue of your amending Decision.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michael O'Connor', with a large, stylized flourish at the end.

Michael O'Connor

NATIONAL SECRETARY



DECISION

Fair Work (Registered Organisations) Act 2009
s.159—Alteration of other rules of organisation

Construction, Forestry, Maritime, Mining and Energy Union (R2019/89)

MURRAY FURLONG

MELBOURNE, 24 JULY 2019

Alteration of other rules of organisation.

[1] On 8 July 2019, the Construction, Forestry, Maritime, Mining and Energy Union (the “CFMMEU”) lodged with the Fair Work Commission a notice and declaration setting out particulars of alterations to the rules of the CFMMEU (the “National Rules”).

[2] The particulars set out an alteration to rule 48 of, and the insertion of a new rule 48A into, the National Rules.

[3] On the information contained in the notice, I am satisfied the alterations have been made under the rules of the CFMMEU.

[4] The alterations pertain to the election of the following offices: State Secretary, State Assistant Secretary, State President, State Senior Vice President and State Joint Vice President (collectively, the “State Officers”). The State Officers are the principal officers of the Branches of the CFMMEU. The CFMMEU contains the following Branches: Queensland, New South Wales, Victoria, Tasmania, Western Australia, South Australia and the Australian Capital Territory (collectively, the “State Branches”). The effect of the alterations is that the State Officers in the New South Wales Branch will be filled on an *ex officio* basis rather than by election as currently pertains to all the State Branches with the exception of the Australian Capital Territory Branch.

[5] In order to consider the effect of the alterations in the present matter, it is necessary to construe them in the context of the rules of the CFMMEU as a whole. In particular, it is necessary to consider the role and function of the State Branches and the State Officers within the broader structure of the CFMMEU and the manner in which the State Officers are currently elected.

[6] As its name suggest, the CFMMEU is an organisation formed through a series of amalgamations the most recent being that with the former The Maritime Union of Australia and the Textile, Clothing and Footwear Union of Australia which took effect on 27 March 2018. This history is reflected in the establishment of, and significant role played by, the four Divisions of the CFMMEU, namely:

- The Construction and General Division;

- The Manufacturing Division;
- The Mining and Energy Division; and
- The Maritime Union of Australia Division.¹

[7] Each of the above Divisions is afforded autonomy to pursue the interests of its membership and govern its own affairs “without any interference by any other body within the [CFMMEU].”² Such autonomy embraces matters such as the pursuit of the industrial interests of its membership, the structure and election of offices within a Division, the management and custody of the funds and property of a Division and the making and amendment of rules pertaining to a Division.³

[8] Accordingly, each Division has adopted and is governed by a set of Divisional Rules (collectively, the “Divisional Rules”)⁴ which must not be inconsistent with the National Rules and the policy of the CFMMEU as determined by the National Conference and the National Executive.⁵ Each of the Divisional Rules set out fundamental matters such as:

- Eligibility for membership of the Division;
- The establishment of the governing bodies and officers of each Division including their duties and powers;
- The management of the property and funds of a Division;
- The election of officers; and
- The manner in which the Divisional Rules may be altered.

[9] Each of the Divisional Rules provide for an Executive (collectively the “Divisional Executives”) and a broader body referred to as a Divisional Conference, Central Council or Divisional National Council to determine the policy and manage the business and affairs of each Division. For the purposes of the National Rules, the Divisional Executive of The Maritime Union of Australia Division is deemed to be the Divisional National Council.⁶

[10] The Divisional Rules also establish various Divisional Offices (e.g. Secretary, President) and set out their powers and duties.

[11] The Divisional Rules also establish Divisional Branches, District Branches or Districts (collectively the “Divisional Branches”) and contain provisions which generally mirror the provisions outlined above as they apply to the governance of such branches. For example, the Divisional Rules provide that the Divisional Branches shall be governed by a body made up of representatives directly elected by the membership (Council, Management Committee, Board of Management or Committee) and a smaller committee which manages the affairs of the Divisional Branch in between meetings of the that body (Committee of Management or Executive). They also provide for the various officers of the Divisional Branches.

[12] Lest the above outline of the Divisional Rules gives the impression that they are standard or uniform, I note that each of them contain important differences with regard to matters such as the structure and composition of each Division’s governing bodies, the extent of control exercisable by, and participation of, the membership in the decisions of the Division, the autonomy afforded to each Divisional Branch to make rules or adopt policies specific to their operations and the establishment of industry specific sectors.

[13] At a national level, the CFMMEU is governed by the National Executive Committee, the National Executive and the National Conference.

[14] The National Executive Committee comprises the National Officers of the CFMMEU and additional members from each Division elected by and from the members of the governing bodies of the Divisions or appointed on an *ex officio* basis. The National Executive Committee exercises its powers subject to review by the National Executive and its role is largely one of the management and administration of the affairs of the CFMMEU such as enforcing the policies determined by the National Conference and the National Executive.⁷

[15] The National Executive consists of the members of the National Executive Committee, the principal officer of each Divisional Branch that is not otherwise a member of the National Executive Committee (special provisions apply to the Manufacturing Division in this regard) and female members from each Division in certain circumstances. The National Executive exercises all the powers of the National Conference with respect to the affairs, business, funds and property of the CFMMEU. Its decisions may be overturned by the National Conference.⁸

[16] The National Conference is the supreme governing body of the CFMMEU and is generally convened every two years. The composition of the National Conference includes the members of each Divisional Executive, any remaining voting members of the National Executive and two members from the National Women's Committee elected by each Division. Its powers include the determination of the policy of the CFMMEU, the establishment of Divisions and the raising and expenditure of the funds of the CFMMEU.⁹

[17] The National Executive and the National Conference are both vested with the power to make alterations to the National Rules. However, reflecting the importance of the autonomy of the Divisions outlined above, no such amendment may be effected without the approval of a Division if it impinges upon such autonomy or affects the existence of a Division.¹⁰

[18] The above structure is maintained by the payment of capitation or sustentation fees by the Divisional Branches to the Divisions and, in turn, by the payment of such fees by the Divisions to the National Office and/or the National Conference.¹¹

[19] Turning to the State Branches, rule 28(i) of the National Rules provides for the establishment of the seven State Branches referred to in paragraph [4] above. However, it further indicates that it is open for the National Conference or the National Executive to abolish any State Branch.

[20] The supreme governing body of a State Branch is the State Conference which is ordinarily convened every two years.¹² The State Executive may exercise the powers of the State Conference subject to review by the State Conference.¹³

[21] The function of the State Branches is essentially to co-ordinate the Divisional Branches at a State or Territory level and the State Conference and State Executive are vested with powers necessary for that purpose. Such powers include:

- the performance of functions referred to it by the Divisional Branches;
- affiliating to any body for and behalf of any Divisional Branch or, with the agreement of each Divisional Branch for and behalf of the State Branch as a whole;
- supervise the funds, if any, paid to the State Branch by the Divisional Branches;
- and

- subject to review by Divisional Executives and the National Executive, settle disputes between Divisional Branches.

[22] In potentially exercising such powers, State Branches are bound by the decisions of the National Executive and the National Conference and, with respect to a matter affecting one Division only, a Divisional Executive. The State Officers are also bound by the directions of the National Executive Committee.¹⁴

[23] Finally, it should be noted that State Branches are empowered to adopt by-laws not inconsistent with the rules of the CFMMEU.¹⁵

[24] The State Conference consists of all the members of the committee of management of each Divisional Branch within the State or Territory covered by the State Branch.¹⁶ The State Executive is composed of the full time elected officers of each Divisional Branch several of whom must be the State Officers.¹⁷

[25] Rule 48 of the National Rules provides that the State Officers are elected by and from the members of the State Conference. Each Division must be represented by at least one State Officer and hold at least one position of Joint Vice President. The nominee for each of the State Officers is determined by resolution of the committee of management of the relevant Divisional Branches. Rule 47 suggests that the relevant nominee must be a full time officer of the Divisional Branch.

[26] Given that the Australian Capital Territory Divisional Branch of the Construction and General Division is the only Divisional Branch with coverage specifically within the confines of the Australian Capital Territory, the State Officers for the Australian Capital Territory Branch are the equivalent officers within that Divisional Branch.¹⁸

[27] Rule 51 provides that the rights and duties of the State Officers and the members of the State Executive shall be the same as those of the National Officers and the National Executive Members with necessary changes being made.

[28] As noted above, the effect of the alterations in the present matter is that the State Officers of the New South Wales Branch will be filled on an *ex officio* basis rather than being subject to election by and from the members of the New South Wales State Conference. New rule 48A provides that the principal officers (Secretary, President, Assistant Secretary) of the seven Divisional Branches within New South Wales across each of the four Divisions shall also hold a specified office of either State Secretary, State Assistant Secretary, State President, State Senior Vice President, State Joint Vice President or State Assistant Joint Vice President. In this regard, the State Assistant Joint Vice President is apparently a new office.

[29] I shall now consider whether the alterations are consistent with the relevant provisions of the Act.

[30] Section 143(1)(a) of the Act provides that the rules of an organisation must provide for the election of the holder of each office of the organisation by either a direct voting system or a collegiate electoral system as defined in the Act. In *Re Airline Hostesses Association* (1980) 37 ALR 110, a Full Court of the Federal Court considered the issue of whether the rules of an organisation which provided for the filling of offices on an *ex officio* basis were contrary to s. 133(1)(a) of the *Conciliation and Arbitration Act 1904* (the predecessor of s. 143(1)(a) of the

Act) in this regard. The majority held that the rules in question were consistent with s. 133(1)(a) as it required that the holder of every office in an organisation must be elected rather than requiring an election for each and every office.

[31] Based on such authority, I am satisfied that the alterations in the present matter are consistent with s. 143(1)(a) of the Act.

[32] The other provision of the Act of potential application is s. 142(1)(c) which provides that the rules of an organisation must not impose on applicants for membership, or members, conditions, obligations or restrictions that, having regard to the objects of the Act and the *Fair Work Act 2009*, are “oppressive, unreasonable or unjust”.

[33] The alterations in the present matter raise two separate considerations in this regard, namely, any intrinsic detriment suffered by the membership of the New South Wales Branch as a consequence of the State Officers being filled on an *ex officio* basis and any particular disadvantage suffered by such members vis-à-vis the members of the other State Branches. Regarding the latter, the Federal Court expressed the following general principle in *Bramich v Transport Workers’ Union of Australia* (2000) 97 FCR 204:

if an organisation elects to assign its members to branches or divisions, it must not do so in a way which significantly discriminates or differentiates between members in the extent of quality of their participation in the democratic control, or the affairs, of the organisation.¹⁹

[34] In my view, the following three matters must be taken into account when determining whether the alterations are consistent with s. 142(1)(c) of the Act in this regard.

[35] Firstly, as the exposition of structure of the CFMMEU above demonstrates, the State Branches play a role which is clearly of lesser importance than the Divisional Branches, the Divisions and the governing bodies at a national level.

[36] The State Branches essentially function to co-ordinate the activities of the Divisional Branches at a State or Territory level and the State Conference and the State Executive have very limited inherent powers in performing this role. The State Branches may also be abolished by the National Executive or the National Conference and are only empowered to adopt by-laws rather than rules to govern their activities.

[37] By contrast, the Divisions have a large degree of autonomy with respect to matters only affecting the membership of a Division and this autonomy is protected in the National Rules. The Divisions are free to adopt rules to govern their operations not inconsistent with the policy of the CFMMEU at a national level or the National Rules, determine the policy of the Division, raise and dispose of the funds of the Division and exercise other powers affecting the Division. The Divisional Rules also, to a greater or lesser degree, afford the Divisional Branches a level of autonomy to determine matters pertaining to the membership of a Divisional Branch. At a national level, the National Executive and the National Conference perform important functions on an organisation-wide basis.

[38] An indication of the limited role played by the State Branches is provided by their reported financial status. In this regard, I note that the Registered Organisations Commissioner issued certificates under s. 271 of the Act to each State Branch with respect to

the financial year ending 31 December 2018.²⁰ Those certificates exempt each State Branch from the auditing and reporting requirements under Part 3 of Chapter 8 of the Act and were issued on the basis that they did not have any financial affairs in that financial year. I note that the certificates were issued prior to the decision in *Construction, Forestry, Maritime, Mining and Energy Union v Registered Organisations Commissioner* [2019] FCA 435.

[39] Given this, it is apparent that the powers potentially exercisable by the persons occupying the State Officer positions, simply by virtue of holding that office, are of a quite limited nature with respect to the operations of the CFMMEU and the interests of its membership. The impact of alterations such as those in the present matter would be of much greater significance and of a fundamentally different nature if they applied to the filling of offices at a Divisional or Divisional Branch level.

[40] Secondly, it is important to take into account the manner in which the State Officers are elected pursuant to the existing National Rules. More specifically, the State Officers are elected by and from the members of the State Conference. The State Conference itself is made up of persons who are members of this body on an *ex officio* basis. The nominee for each State Office is determined by the committee of management of the relevant Divisional Branch rather than nominations being open to any member of the State Conference.

[41] Seen in this context, the alterations represent, in my view, a relatively minor change in the quality of the participation of the membership in the affairs and the democratic functioning of the CFMMEU. Currently, the relevant nominee from each Divisional Branch is tightly controlled and the pool of potential candidates is quite limited. From the perspective of a person in his or her capacity as a member of a Divisional Branch, a Division or a State Branch, the effect of the alterations is of quite limited significance.

[42] Finally, as noted above, rule 48A allocates a State Officer position to the principal officers of each of the seven Divisional Branches in New South Wales. In terms of the Divisions, the Construction and General Division is allocated 3 offices, The Maritime Union of Australia Division is allocated 3 offices, the Manufacturing Division is allocated 2 offices and the Mining and Energy Division is allocated 2 offices. The distribution of the five most notable offices of State Secretary, State Assistant Secretaries, State President and State Senior Vice President is also relatively equal with the Construction and General Division enjoying one more position compared to the other three Divisions. Consistent with rule 48, each Division holds one of the four offices of State Joint Vice President established.

[43] In my view, taking the above considerations into account and in light of the objects of the Act, the alterations in the present matter do not impose a condition or restriction which is oppressive or unreasonable on the membership of the CFMMEU in New South Wales. Further, I am also satisfied that the alterations do not significantly discriminate or differentiate between such members and the members of the other State Branches in the extent of their democratic participation in the affairs of the CFMMEU. I note that similar provisions operate with respect to the Australian Capital Territory Branch by necessity.

[44] In my opinion, the alterations comply with and are not contrary to the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, modern awards and enterprise agreements, and are not otherwise contrary to law. I certify accordingly under subsection 159(1) of the *Fair Work (Registered Organisations) Act 2009*.



DELEGATE OF THE GENERAL MANAGER

Endnotes:

- ¹ Established pursuant to rule 27(i) of the National Rules.
- ² Rule 27(ii) of the National Rules.
- ³ Rule 27 of the National Rules.
- ⁴ The Divisional Rules can be accessed at <https://www.fwc.gov.au/registered-organisations/find-registered-organisations/construction-forestry-mining-and-energy-union>
- ⁵ Rule 27(iv) of the National Rules.
- ⁶ Rule 5 of the National Rules.
- ⁷ Rule 14 of the National Rules.
- ⁸ Rule 15 of the National Rules.
- ⁹ Rule 13 of the National Rules.
- ¹⁰ Rule 25 of the National Rules.
- ¹¹ Rules 22(i) & 22(ii) of the National Rules.
- ¹² Rule 46 of the National Rules.
- ¹³ Rule 47 of the National Rules.
- ¹⁴ Rules 28 & 46 of the National Rules.
- ¹⁵ Rule 28(ii) of the National Rules.
- ¹⁶ Rule 46 of the National Rules.
- ¹⁷ Rule 47 of the National Rules.
- ¹⁸ Rule 48(i) of the National Rules.
- ¹⁹ At 214.
- ²⁰ See matters FR2018/339, FR2018/324, FR2018/325, FR2018/326, FR2018/340, FR2018/300, FR2018/332 accessible at https://www.roc.gov.au/find-a-registered-organisation/cfmmeu/construction-forestry-maritime-mining-and-energy-union?dfaction=search&df924_1=Financial%20reports

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ANNEXURE B

48 - ELECTION OF STATE OFFICERS – OTHER THAN NSW STATE BRANCH

- (i) The State Officers, being the State Secretary, the State Assistant Secretary (except in the State of Victoria, where there shall be two State Assistant Secretaries), the State President and the State Senior Vice-President shall be elected by and from the State Conference. The election shall be held, the necessary changes being made, in the same way as Divisional Officers are elected from the Divisional Conference under Rule 9 of the Construction & General Division Rules, provided that each Division shall be represented by at least one State Officer.

Provided that for the A.C.T. Branch (while that Branch has only one Divisional Branch) Officers elected to the Construction & General Division A.C.T. Branch, shall hold the equivalent position within the A.C.T. State Branch.

Further provided that, each Division shall hold at least one position of Joint Vice-President.

Further provided that, each Division, prior to the calling for nominations, shall decide its nominees for the above positions, by resolution from that Division's Divisional Branch Management Committee.

- (ii) Where, in accordance with the Rules of the Union, an officer of a Divisional Branch within a Branch area ceases to hold office as an officer of the Divisional Branch such officer shall at the same time cease to hold office as a State officer in accordance with this rule. Provided that the member who replaces such a Divisional Branch officer in the office in the Divisional Branch shall also fill the vacancy created in the position of State officer only until such time as the State officer's position can be filled in accordance with the rules governing casual vacancy, or, if the vacancy occurs within 12 months of an ordinary election, by the ordinary election.
- (iii) The term of office of officers of a Branch of the union shall be four (4) years.
- (iv) This rule does not apply to the NSW Branch upon commencement of rule 48A.

48A – ELECTION OF STATE OFFICERS NSW STATE BRANCH

- (i) From the time of the commencement of this rule, the State Officers in the New South Wales Branch will be as contained in the table below and will be filled on an ex officio basis by the holders of the corresponding Divisional Office.

STATE OFFICER	DIVISIONAL OFFICE
State Secretary	Divisional Branch Secretary – Construction & General Division (NSW)
State Assistant Secretary (MNF)	<i>NSW District Secretary Manufacturing Division</i>
State Assistant Secretary (MUA)	<i>Sydney Divisional Branch Secretary (Sydney Divisional Branch - MUA)</i>

State President	<i>District President of the Northern Mining & NSW Energy District Branch, Mining & Energy Division</i>
State Senior Vice President	<i>Divisional Branch President – Construction & General Division (NSW)</i>
State Joint Vice President (M&E)	<i>District President of the South West District Branch, Mining & Energy Division</i>
State Joint Vice President (C&G)	<i>Divisional Branch Assistant Secretary – Construction & General Division (NSW)</i>
State Joint Vice President (MNF)	<i>NSW District President Manufacturing Division</i>
State Joint Vice President (MUA)	<i>Newcastle Divisional Branch Secretary (MUA)</i>
State Assistant Joint Vice President (MUA)	<i>Southern New South Wales Divisional Branch Secretary (MUA)</i>

- (ii) As the above offices for State Officer are held on an ex-officio basis, where a person commences or ceases to hold the Divisional Office position referred to in the second column, they also commence or cease, as the case may be, to hold office as a State Officer in the State Branch.
- (iii) For the avoidance of doubt, the terms of office for the above State Branch Offices are determined by the term of office of the Divisional Office referred to in the second column, however, such terms of office may be for no longer four (4) years.



AMENDING DECISION

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

Construction, Forestry, Maritime, Mining and Energy Union
(E2018/31)

MR COYLE

MELBOURNE, 25 MARCH 2019

Arrangement for conduct of election.

[1] The decision issued by the Delegate of the Registered Organisations Commissioner (the Commissioner) on 11 April 2018 [[2018] ROCD 65] is amended as follows:

By deleting '(2)' from the list of offices at paragraph [1] under Queensland Branch State Joint Vice President and inserting in lieu: (3)

By deleting '(3)' from the list of offices at paragraph [1] under New South Wales Branch State Joint Vice President and inserting in lieu: (4)

By deleting '(3)' from the list of offices at paragraph [1] under Victoria Branch State Joint Vice President and inserting in lieu: (4)

By deleting '(3)' from the list of offices at paragraph [1] under Tasmania Branch State Joint Vice President and inserting in lieu: (4)

By deleting '(2)' from the list of offices at paragraph [1] under South Australia Branch State Joint Vice President and inserting in lieu: (3)

By deleting '(2)' from the list of offices at paragraph [1] under Western Australia Branch State Joint Vice President and inserting in lieu: (3)

By deleting in paragraph [3] 'In particular, the offices in each branch remain the same and the procedures for the election of office holders remain the same.'

[2] On 28 February 2018, the Construction, Forestry, Mining and Energy Union lodged the original prescribed information with the Registered Organisations Commission (the ROC) for the scheduled election for State Branch officers – **E2018/31**.

[3] On 27 March 2018, the Construction, Forestry, Mining and Energy Union amalgamated with the Maritime Union of Australia and the Textile, Clothing and Footwear Union of Australia to become the Construction, Forestry, Maritime, Mining and Energy Union (the organisation). As a consequence, a new Maritime Union of Australia Division was created resulting in an increase in the number of State Branch Joint Vice Presidents to be elected.

[4] In the decision of 11 April 2018, Mr Enright, in his capacity as Delegate of the Commissioner, made arrangements for the conduct of the election based on the prescribed information lodged on 28 February 2018.

[5] On 17 April 2018, Mr Michael O'Connor, National Secretary of the organisation lodged amended prescribed information with the ROC increasing the numbers of State Branch Joint Vice Presidents in accordance with those numbers specified in paragraph [1].

[6] Between April 2018 and February 2019, extensive communication between staff of the ROC and the organisation was exchanged. Part of these communications related to the possible ambiguities or inconsistencies in the rules of the organisation referred to further below which caused uncertainty regarding the proper number of offices of State Branch Joint Vice President to be elected. This has resulted in delays in assessing the amended prescribed information. Following communication received from the organisation on 25 February 2019 (dated 21 February 2019), these matters are sufficiently resolved to enable this decision to be issued.

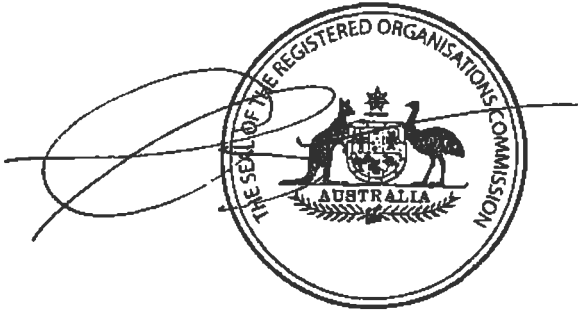
[7] Consequential to the amalgamation of 27 March 2018, I am satisfied that an election is due for the offices listed in Mr O'Connor's correspondence of 17 April 2018. I am also satisfied that an election is due for at least those numbers of State Branch Joint Vice Presidents as outlined in Mr O'Connor's correspondence.

Joint Vice Presidents

[8] As stated above in relation to the exchange of correspondence between the organisation and the ROC, there are certain ambiguities of the National Rules in relation to the entitlement of State Branches to a Joint Vice President. Rule 48(i) of the National Rules provides that each Division 'shall hold at least one position of Joint Vice-President'. However a question arises as to the entitlement of State Branches to a Joint Vice President if a Division does not have a presence in a particular state. It is also unclear what the consequences are for Districts or Divisional Branches who do not clearly fit within State Branch geographical boundaries.

[9] In the correspondence of 21 February 2019 from Mr O'Connor, the organisation has agreed that its current rules are 'ambiguous and lacking in clarity in relation to the operation of State Branches'. Mr O'Connor has informed the ROC that the organisation is currently considering advice with a view to making amendments to the rules to remove these ambiguities in the foreseeable future. It is unnecessary for me to form a view about those ambiguities to be satisfied of the need for elections in respect of those offices listed in the amended prescribed information.

[10] I emphasise my concerns about the deficiency of the organisation's rules and recommend that they be remedied as soon as possible to ensure clarity and compliance with the *Fair Work (Registered Organisations) Act 2009*. This will assist in avoiding unnecessary delays in the assessment and conduct of future elections. I advise that in addition to the publication of this decision on the website of the ROC, a copy will be forwarded to the General Manager of the Fair Work Commission.



DELEGATE OF THE COMMISSIONER

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<PR351179>

Construction Forestry Maritime Mining and Energy Union National Office

21 February 2019

Mr Chris Enright
Delegate of the Commissioner
Registered Organisations Commission
GPO Box 2983
MELBOURNE VIC 3001

Dear Mr Enright

RE: [2018] ROCD 65 – DECISION ON ELECTIONS [E2018/31]

I write further to the letter sent to you on 17 April 2018 in response to your decision of 11 April 2018.

Following recent discussions with staff of the ROC I believe it is necessary to inform you of our revised view on two matters.


Firstly, it is clear to me that the original decision of the ROC in relation to the Queensland issue was in fact correct.

Secondly, as a result of the discussions referred to above, I can advise that the number of Vice Presidents in the ACT should be 1, not nil as previously advised.

I acknowledge that the current rules of the union are ambiguous and lacking in clarity in relation to the operation of State Branches and that this has, together with the recent amalgamation complicated the determination of these matters.

I can advise that the CFMMEU is currently considering advice with a view to making amendments to the rules to remove these ambiguities in the foreseeable future.

Yours Sincerely



Michael O'Connor
NATIONAL SECRETARY

**Construction, Forestry,
Maritime, Mining and
Energy Union**
National Office

Michael O'Connor
National Secretary
ABN 17402743835

540 Elizabeth Street
MELBOURNE VIC 3000

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17 April 2018

Mr Mark Bielecki
Commissioner
Registered Organisations Commission
GPO Box 2983
MELBOURNE VIC 3001

Dear Commissioner

RE: E2018/31 - PRESCRIBED INFORMATION FOR ELECTIONS

I refer to my letter to the Delegate of 17 April 2018 regarding the decision on elections for the Construction, Forestry, Maritime, Mining and Energy Union (E2018/31).

As a result of the amalgamation of the MUA, TCFUA and CFMEU on 27 March 2018, I must notify you of a change in the prescribed information which was lodged on 28 February 2018.

In accordance with section 189 of the *Fair Work (Registered Organisations) Act 2009* and Regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009*, I provide the below information regarding elections.

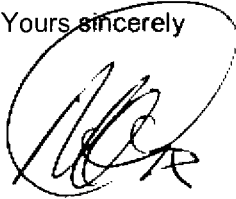
I, Michael O'Connor, being the National Secretary of the Construction, Forestry, Maritime, Mining and Energy Union, make the following statement:

1. I am authorised to sign this statement containing prescribed information for elections for State Branch officers;
2. The following information is lodged under sub-section 189(1) of the *Fair Work (Registered Organisations) Act 2009*.
3. The elections that are required are set out in Annexure A, attached.
4. The date and time for the opening of nominations is in accordance with rule 48(i) of the rules of the Construction, Forestry, Maritime, Mining and Energy Union, which provides, inter alia, that the election shall be held, the necessary changes being made, in the same way as Divisional Officers are elected from the Divisional Conference under Rule 9 of the rules of the Construction and General Division.

5. The date and time for the closing of nominations is in accordance with rule 9(5) of the rules of the Construction and General Division which provides that nominations shall be called for by the Returning Officer on a date fixed by the Returning Officer following the fixing by Divisional Executive, pursuant to sub-rule 8(xi), of a date and place for the holding of elections required under the rule, and shall close fourteen days after nominations are opened.
6. This statement is lodged at least two months before nominations open for the elections below.

This declaration, and the Annexure A, revise and replace the prescribed information lodged previously on 28 February 2018.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M O'Connor', enclosed within a hand-drawn oval.

Michael O'Connor
NATIONAL SECRETARY

Attachment: copy of letter to the Delegate of the Commissioner, 17 April 2018

ANNEXURE A

Elections that are required:

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
Queensland Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to Queensland Branch State Conference
Queensland Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to Queensland Branch State Conference
Queensland Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to Queensland Branch State Conference
Queensland Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to Queensland Branch State Conference
Queensland Branch	State Branch Joint Vice-President	3	Collegiate election	Scheduled election	Delegates to Queensland Branch State Conference
New South Wales Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to New South Wales Branch State Conference
New South Wales Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to New South Wales Branch State Conference
New South Wales Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to New South Wales Branch State Conference
New South Wales Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to New South Wales Branch State Conference
New South Wales Branch	State Branch Joint Vice-President	4	Collegiate election	Scheduled election	Delegates to New South Wales Branch State Conference
Victorian Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to Victorian Branch State Conference
Victorian Branch	State Branch Assistant Secretary	2	Collegiate election	Scheduled election	Delegates to Victorian Branch State Conference
Victorian Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to Victorian Branch State Conference
Victorian Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to Victorian Branch State Conference

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
Victorian Branch	State Branch Joint Vice-President	4	Collegiate election	Scheduled election	Delegates to Victorian Branch State Conference
Tasmanian Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to Tasmanian Branch State Conference
Tasmanian Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to Tasmanian Branch State Conference
Tasmanian Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to Tasmanian Branch State Conference
Tasmanian Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to Tasmanian Branch State Conference
Tasmanian Branch	State Branch Joint Vice-President	4	Collegiate election	Scheduled election	Delegates to Tasmanian Branch State Conference
South Australian Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to South Australian Branch State Conference
South Australian Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to South Australian Branch State Conference
South Australian Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to South Australian Branch State Conference
South Australian Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to South Australian Branch State Conference
South Australian Branch	State Branch Joint Vice-President	3	Collegiate election	Scheduled election	Delegates to South Australian Branch State Conference
Western Australian Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to Western Australian Branch State Conference
Western Australian Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to Western Australian Branch State Conference
Western Australian Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to Western Australian Branch State Conference
Western Australian Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to Western Australian Branch State Conference
Western Australian Branch	State Branch Joint Vice-President	3	Collegiate election	Scheduled election	Delegates to Western Australian Branch State Conference

17 April 2018

Mr Chris Enright
Delegate of the Commissioner
Registered Organisations Commission
GPO Box 2983
MELBOURNE VIC 3001

Dear Mr Enright

RE: [2018] ROCD 65 - DECISION ON ELECTIONS [E2018/31]

I write further to my letter to Commissioner Bielecki of 28 February 2018 and your decision of 11 April 2018.

The purpose of my letter is twofold. In the first instance, I wish to bring to your attention a number of errors contained in your decision:

- 1 at paragraph [1], your decision records the incorrect number of persons required to be elected;
- 2 at paragraph [3], your decision records that:
"The alterations to the rules of the CFMEU did not alter the rules of the branches as listed above, except to include Northern Territory members in the Queensland branch. In particular, the offices in each branch remain the same and the procedures for the election of office holders remain the same."

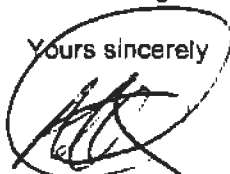
This is factually incorrect on a number of counts:

- 1 In the first instance, the members in the Northern Territory were already members of the Queensland Branch prior to the amalgamation;
- 2 The offices in each branch do not remain the same, but are in some instances increased.

Second, I can advise you that as a result of the recent amalgamation there will need to be changes in the prescribed information that was provided to the Commissioner under cover of the aforementioned letter of 28 February. The revised information is in the correspondence attached.

I would be grateful if you could review your decision in light of the above.

Yours sincerely



Michael O'Connor
NATIONAL SECRETARY



DECISION

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

Construction, Forestry, Maritime, Mining and Energy Union (E2018/31)

MR ENRIGHT

MELBOURNE, 11 APRIL 2018

Arrangement for conduct of election.

[1] On 28 February 2018 the Construction, Forestry, Mining and Energy Union (**the CFMEU**) lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices:

Queensland Branch

State Secretary	(1)
State Assistant Secretary	(1)
State President	(1)
State Senior Vice President	(1)
State Joint Vice President	(2)

New South Wales Branch

State Secretary	(1)
State Assistant Secretary	(1)
State President	(1)
State Senior Vice President	(1)
State Joint Vice President	(3)

Victoria Branch

State Secretary	(1)
State Assistant Secretary	(2)
State President	(1)
State Senior Vice President	(1)
State Joint Vice President	(3)

Tasmania Branch

State Secretary	(1)
State Assistant Secretary	(1)
State President	(1)
State Senior Vice President	(1)
State Joint Vice President	(3)

South Australia Branch

State Secretary	(1)
State Assistant Secretary	(1)
State President	(1)
State Senior Vice President	(1)
State Joint Vice President	(2)

Western Australia Branch

State Secretary	(1)
State Assistant Secretary	(1)
State President	(1)
State Senior Vice President	(1)
State Joint Vice President	(2)

[2] On 27 March 2018 the CFMEU amalgamated with The Maritime Union of Australia (**MUA**) and the Textile, Clothing and Footwear Union of Australia (**TCFUA**) to form the Construction, Forestry, Maritime, Mining and Energy Union (**the organisation**) (see the decision of the Fair Work Commission [2018] FWC 1017). To effect the amalgamation the MUA and TCFUA were de-registered (see [2018] FWC 1797 and [2018] FWC 1794). The rules of the CFMEU were altered so that, among other things, its eligibility rules include the members of the MUA and TCFUA. Also the CFMEU's name was changed to the Construction, Forestry, Maritime, Mining and Energy Union.

[3] The alterations to the rules of the CFMEU did not alter the rules of the branches as listed above, except to include Northern Territory members in the Queensland branch. In particular, the offices in each branch remain the same and the procedures for the election of office holders remain the same.

[4] In relation to the Australian Capital Territory Branch, rule 48(i) states "*that for the A.C.T. Branch (while that Branch has only one Divisional Branch) Officers elected to the Construction & General Division A.C.T. Branch, shall hold the equivalent position within the A.C.T. State Branch.*". I note that the equivalent officers were elected in E2016/134 and are therefore not due for re-election.

[5] 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 COMMISSIONER

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<PR351033>

28 February 2018

Mr Mark Bielecki
Commissioner
Registered Organisations Commission
GPO Box 2983
MELBOURNE VIC 3001

Dear Commissioner

PRESCRIBED INFORMATION FOR ELECTIONS – E2018/31

In accordance with section 189 of the *Fair Work (Registered Organisations) Act 2009* and Regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009*, I provide the below information regarding CFMEU elections.

I, Michael O'Connor, being the National Secretary of the Construction Forestry Mining and Energy Union [CFMEU], make the following statement:

1. I am authorised to sign this statement containing prescribed information for elections for CFMEU State Branch officers;
2. The following information is lodged under sub-section 189(1) of the *Fair Work (Registered Organisations) Act 2009*.
3. The elections that are required are set out in Annexure A, attached.
4. The date and time for the opening of nominations is in accordance with rule 48(i) of the rules of the CFMEU, which provides, inter alia, that the election shall be held, the necessary changes being made, in the same way as Divisional Officers are elected from the Divisional Conference under Rule 9 of the rules of the Construction and General Division.
5. The date and time for the closing of nominations is in accordance with rule 9(5) of the rules of the Construction and General Division which provides that nominations shall be called for by the Returning Officer on a date fixed by the Returning Officer following the fixing by Divisional Executive, pursuant to sub-rule 8(xi), of a date and place for the holding of elections required under the rule, and shall close fourteen days after nominations are opened.
6. This statement is lodged at least two months before nominations open for the elections below.

Yours sincerely



Michael O'Connor
NATIONAL SECRETARY

ANNEXURE A

Elections that are required:

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
CFMEU Queensland Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU Queensland Branch State Conference
CFMEU Queensland Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU Queensland Branch State Conference
CFMEU Queensland Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to CFMEU Queensland Branch State Conference
CFMEU Queensland Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to CFMEU Queensland Branch State Conference
CFMEU Queensland Branch	State Branch Joint Vice-President	2	Collegiate election	Scheduled election	Delegates to CFMEU Queensland Branch State Conference
CFMEU New South Wales Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU New South Wales Branch State Conference
CFMEU New South Wales Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU New South Wales Branch State Conference
CFMEU New South Wales Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to CFMEU New South Wales Branch State Conference
CFMEU New South Wales Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to CFMEU New South Wales Branch State Conference
CFMEU New South Wales Branch	State Branch Joint Vice-President	3	Collegiate election	Scheduled election	Delegates to CFMEU New South Wales Branch State Conference
CFMEU Victorian Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU Victorian Branch State Conference
CFMEU Victorian Branch	State Branch Assistant Secretary	2	Collegiate election	Scheduled election	Delegates to CFMEU Victorian Branch State Conference
CFMEU Victorian Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to CFMEU Victorian Branch State Conference
CFMEU Victorian Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to CFMEU Victorian Branch State Conference

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
CFMEU Victorian Branch	State Branch Joint Vice-President	3	Collegiate election	Scheduled election	Delegates to CFMEU Victorian Branch State Conference
CFMEU Tasmanian Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU Tasmanian Branch State Conference
CFMEU Tasmanian Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU Tasmanian Branch State Conference
CFMEU Tasmanian Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to CFMEU Tasmanian Branch State Conference
CFMEU Tasmanian Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to CFMEU Tasmanian Branch State Conference
CFMEU Tasmanian Branch	State Branch Joint Vice-President	3	Collegiate election	Scheduled election	Delegates to CFMEU Tasmanian Branch State Conference
CFMEU South Australian Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU South Australian Branch State Conference
CFMEU South Australian Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU South Australian Branch State Conference
CFMEU South Australian Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to CFMEU South Australian Branch State Conference
CFMEU South Australian Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to CFMEU South Australian Branch State Conference
CFMEU South Australian Branch	State Branch Joint Vice-President	2	Collegiate election	Scheduled election	Delegates to CFMEU South Australian Branch State Conference
CFMEU Western Australian Branch	State Branch Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU Western Australian Branch State Conference
CFMEU Western Australian Branch	State Branch Assistant Secretary	1	Collegiate election	Scheduled election	Delegates to CFMEU Western Australian Branch State Conference
CFMEU Western Australian Branch	State Branch President	1	Collegiate election	Scheduled election	Delegates to CFMEU Western Australian Branch State Conference
CFMEU Western Australian Branch	State Branch Senior Vice-President	1	Collegiate election	Scheduled election	Delegates to CFMEU Western Australian Branch State Conference
CFMEU Western Australian Branch	State Branch Joint Vice-President	2	Collegiate election	Scheduled election	Delegates to CFMEU Western Australian Branch State Conference



1 February 2018

Mr Michael O'Connor
The National Secretary
Construction, Forestry, Mining and Energy Union

Sent via email: nationalqueries@cfmeu.org

CC: AEC Returning Officer by email: industrial.elections@aec.gov.au

Dear Mr O'Connor,

Courtesy Letter - Election for offices [E2018/31]

The rules of the Construction, Forestry, Mining and Energy Union indicate that an election for offices within the organisation is due to commence shortly.

- State Branch Officers

It appears that nominations for the election for the above-named offices open in May this year

Reminder: prescribed information must be lodged

This is a courtesy letter to remind you of your obligation to lodge information about the election (known as the 'prescribed information') pursuant to sub-sections 189(1) and (2) of the *Fair Work (Registered Organisations) Act 2009* (the 'Act') within the month. Prescribed information must be lodged with the Registered Organisations Commission (the ROC) two months before nominations open for the election.

If you do NOT agree that an election is due

If you have a different interpretation for the commencement of the election or the offices due for election under your rules, please let the ROC know on regorgs@roc.gov.au as soon as possible.

If you agree that an election is due

If you agree that an election is due, the prescribed information must be lodged within the month. The prescribed information should contain details of the election as required by regulation 138(1) of the *Fair Work (Registered Organisations) Regulations 2009* (the 'Regulations'), and any subsequent collegiate elections, if that is relevant. A sample of the prescribed information can be found on our website at <http://www.roc.gov.au/resources-and-decisions/fact-sheets-templates-and-webinars>.

The prescribed information should be emailed to regorgs@roc.gov.au. When lodging the prescribed information, please quote [E2018/31]

If you are unable to lodge the prescribed information on time

If your organisation believes that it will be unable to comply with the prescribed day as set out in the Regulations, it will need to apply to the Commissioner within the month for a later date. Such request will need to set out in detail the reason why your organisation is unable to comply with the requirement. While the Commissioner will consider such an application, there is no assurance that

consent to a later day will be allowed.

Penalties apply

It should be noted Section 189(2) is a civil penalty provision. Failure for an organisation to lodge prescribed information at least two months before nominations open may result in legal proceedings being issued with the possibility of a pecuniary penalty being imposed upon an officer and/or the organisation.

The ROC intends to continue to provide reminders that an election is due as a courtesy. However failure to receive a reminder from the ROC cannot be relied on as a reason for late, incorrect or non-lodgment of prescribed information. The obligation to lodge prescribed information consistent with the Act and the rules of the organisation rests with the organisation.

Insufficient nominations

If there are insufficient nominations, or if a casual vacancy arises after the conduct of this election, then those unfilled or vacated offices must be filled in accordance the organisation's rules, and in any event in a timely manner.

Should you seek any clarification in relation to the above, please contact the ROC on regorgs@roc.gov.au.

Yours faithfully,



Sam Gallichio
Registered Organisations Commission