

# Construction Forestry Mining & Energy Union

FEDFA - Victorian Divisional Branch



Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8, Terrace Towers  
80 William Street  
SYDNEY NSW 2011

ABN 40 943 811 848

34-40 Barry Street,  
Carlton Victoria 3053

Telephone: (03) 9347 9777

Fax: (03) 9347 3385

Email: [service@fedfa.cfmeu.asn.au](mailto:service@fedfa.cfmeu.asn.au)

**By facsimile (02) 9380 6990**

Dear Mr Jenkins

## **Lodgement of Prescribed Information Section 189, RAO Schedule**

I am writing to seek your guidance on the interpretation of a provision of the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* ("the RAO Regulations"), in order to clarify when it is that our Branch is required to lodge prescribed information with the Australian Industrial Registry.

I note that, under subsection 189(2) of Schedule 1B of the Act, the prescribed information must be lodged before the prescribed day or such later day as a Registrar allows. For the purposes of that subsection, sub-regulation 138(3) of the RAO Regulations identifies the prescribed day as the day occurring 2 months before "the first day when a person may, under the rules of the organisation or branch, become a candidate in an election".

Our reading of that sub-regulation is that a person will "become a candidate" no earlier than the date on which nominations for elections are closed. A person can only be said to be a candidate once a nomination has been accepted as valid by a returning officer. Merely submitting a nomination (or purported nomination) would not, we presume, be sufficient, under our rules, to establish that that person is "a candidate".

The relevant rule is rule 38, and in particular sub-rules 38(c)-(j), of the registered rules of the Construction, Forestry, Mining and Energy Union, Construction and General Division and Construction and General Divisional Branches [105N-BWIU].

If our reading is correct, then it would appear that the deadline for our section 189 lodgement is a day two months prior to the close of nominations. Nominations close on the second last Friday in September 2004: sub-rule 38(e).

If you are of the view that, under our rules, a person becomes a 'candidate' on some earlier date (say, the date of opening of nominations), then we would appreciate receiving notification of that view as soon as is you might be able to provide it. The reason for this request is that, if your view is that an earlier date is the reference point for the purposes of sub-regulation 138(3), then, for reasons that are not presently necessary to describe, we may need to make an application for an authorisation, under subsection 189(2), of later lodgement. No such application will be necessary if our reading of sub-regulation 138(3) is correct.

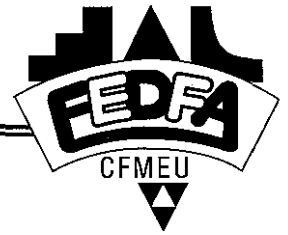
I thank you in anticipation of your assistance in this matter.

Yours faithfully



**Tom Watson**  
**Divisional Branch Secretary**

4 May 2005



Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8, Terrace Towers  
80 William Street  
SYDNEY NSW 2011

**FAXED**  
5/5/04

ABN 40 943 811 848

34-40 Barry Street,  
Carlton Victoria 3053

Telephone: (03) 9347 9777

Fax: (03) 9347 3385

Email: [service@fedfa.cfmeu.asn.au](mailto:service@fedfa.cfmeu.asn.au)

**By facsimile (02) 9380 6990**

Dear Mr Jenkins

**Lodgement of Prescribed Information  
Section 189, RAO Schedule**

I am writing to seek your guidance on the interpretation of a provision of the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* ("the RAO Regulations"), in order to clarify when it is that our Branch is required to lodge prescribed information with the Australian Industrial Registry.

I note that, under subsection 189(2) of Schedule 1B of the Act, the prescribed information must be lodged before the prescribed day or such later day as a Registrar allows. For the purposes of that subsection, sub-regulation 138(3) of the RAO Regulations identifies the prescribed day as the day occurring 2 months before "the first day when a person may, under the rules of the organisation or branch, become a candidate in an election".

Our reading of that sub-regulation is that a person will "become a candidate" no earlier than the date on which nominations for elections are closed. A person can only be said to be a candidate once a nomination has been accepted as valid by a returning officer. Merely submitting a nomination (or purported nomination) would not, we presume, be sufficient, under our rules, to establish that that person is "a candidate".

The relevant rule is rule 38, and in particular sub-rules 38(c)-(j), of the registered rules of the Construction, Forestry, Mining and Energy Union, Construction and General Division and Construction and General Divisional Branches [105N-BWIU].

If our reading is correct, then it would appear that the deadline for our section 189 lodgement is a day two months prior to the close of nominations. Nominations close on the second last Friday in September 2004: sub-rule 38(e).

If you are of the view that, under our rules, a person becomes a 'candidate' on some earlier date (say, the date of opening of nominations), then we would appreciate receiving notification of that view as soon as is you might be able to provide it. The reason for this request is that, if your view is that an earlier date is the reference point for the purposes of sub-regulation 138(3), then, for reasons that are not presently necessary to describe, we may need to make an application for an authorisation, under subsection 189(2), of later lodgement. No such application will be necessary if our reading of sub-regulation 138(3) is correct.

I thank you in anticipation of your assistance in this matter.

Yours faithfully

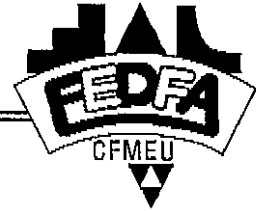


**Tom Watson**  
**Divisional Branch Secretary**

4 May 2005

# Construction Forestry Mining & Energy Union

FEDFA - Victorian Divisional Branch



Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8, Terrace Towers  
80 Williams Street  
SYDNEY NSW 2011

ABN 40 943 811 848

34-40 Barry Street,  
Carlton Victoria 3053

Telephone: (03) 9347 9777

Fax: (03) 9347 3385

Email: [service@fedfa.cfmeu.asn.au](mailto:service@fedfa.cfmeu.asn.au)

**By facsimile (02) 9380 6990**

Dear Mr Jenkins

### **Lodgement of Prescribed Information Section 189, RAO Schedule**

I refer to my correspondence dated 4 May 2004 regarding your interpretation of a provision under the Workplace Relations Act in order to clarify when it is that our Branch is required to lodge prescribed information with the Australian Industrial Registry.

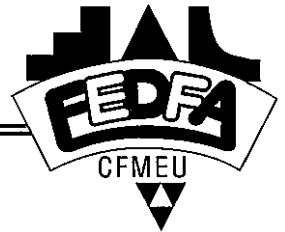
You will recall our subsequent telephone conversation regarding this matter in which you informed me that you would acknowledge receipt of my correspondence and outline your opinion in writing to me.

As we are yet to receive this communication from you, our legal counsel has directed me to write to you again requesting your interpretation in writing as soon as possible.

Yours sincerely

**Tommy Watson  
Branch Secretary**

30 June 2004



**RECEIVED**  
30/6/04

Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8, Terrace Towers  
80 Williams Street  
SYDNEY NSW 2011

ABN 40 943 811 848

34-40 Barry Street,  
Carlton Victoria 3053

Telephone: (03) 9347 9777

Fax: (03) 9347 3385

Email: [service@fedfa.cfmeu.asn.au](mailto:service@fedfa.cfmeu.asn.au)

**By facsimile (02) 9380 6990**

Dear Mr Jenkins

**Lodgement of Prescribed Information  
Section 189, RAO Schedule**

I refer to my correspondence dated 4 May 2004 regarding your interpretation of a provision under the Workplace Relations Act in order to clarify when it is that our Branch is required to lodge prescribed information with the Australian Industrial Registry.

You will recall our subsequent telephone conversation regarding this matter in which you informed me that you would acknowledge receipt of my correspondence and outline your opinion in writing to me.

As we are yet to receive this communication from you, our legal counsel has directed me to write to you again requesting your interpretation in writing as soon as possible.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tommy Watson'.

**Tommy Watson  
Branch Secretary**

30 June 2004



Australian Government

Australian Industrial Registry

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 8374 6666  
Fax: (02) 9380 6990

Mr Tom Watson  
Branch Secretary  
Construction & General Division  
Victorian FEDFA Divisional Branch  
CFMEU  
34-40 Barry Street  
CARLTON VIC 3053

Facsimile: (03) 9347 3385

Dear Mr Watson

**Lodgement of prescribed information - s189 RAO Schedule**

I refer to your letter dated 4 May 2004 and our subsequent telephone conversation concerning the above provision. I also refer to your letter of today's date. I apologise for the delay in responding in writing to your first letter.

As I outlined in our telephone conversation the Registry's view in relation to the identification of the prescribed day pursuant to subregulation 138(3) of the Workplace Relations (Registration and Accountability of Organisations) Regulations (and its predecessor) is determined having regard to the date on which nominations open. The purpose of the two month prescribed period is to enable sufficient time for a Registrar to reach a decision in relation to the conduct of the election and also for the Australian Electoral Commission to prepare for the calling of nominations.

If my delay in providing you with this advice presents difficulties for the Branch in lodging the prescribed information in time then I can indicate that I would have regard to this in exercising my discretion under s189(2) of the RAO Schedule to allow the prescribed information to be lodged on a later date.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Barry Jenkins'.

Barry Jenkins  
Deputy Industrial Registrar

30 June 2004

## THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
011	MEMORY TX		0393473385	01/01	OK

## ERRORS

1) HANG UP OR LINE FAIL      2) BUSY      3) NO ANSWER      4) NO FACSIMILE CONNECTION



**Australian Government**

**Australian Industrial Registry**

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 6374 6666  
Fax: (02) 9380 6990

Mr Tom Watson  
Branch Secretary  
Construction & General Division  
Victorian FEDFA Divisional Branch  
CFMEU  
34-40 Barry Street  
CARLTON VIC 3053

Facsimile: (03) 9347 3385

Dear Mr Watson

**Lodgement of prescribed information - s189 RAO Schedule**

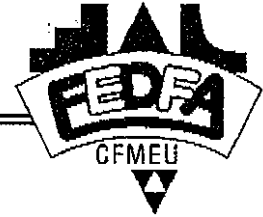
I refer to your letter dated 4 May 2004 and our subsequent telephone conversation concerning the above provision. I also refer to your letter of today's date. I apologise for the delay in responding in writing to your first letter.

As I outlined in our telephone conversation the Registry's view in relation to the identification of the prescribed day pursuant to subregulation 138(3) of the Workplace Relations (Registration and Accountability of Organisations) Regulations (and its predecessor) is determined having regard to the date on which nominations open. The purpose of the two month prescribed period is to enable the conduct of the election and also



**Construction Forestry Mining & Energy Union**

FEDFA – Victorian Divisional Branch



Mr Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8, Terrace Towers  
80 William Street  
East Sydney NSW 2011

By Fax: (02) 9380 6990

ABN 40 943 811 648

34-40 Barry Street,  
Carlton Victoria 3053

Telephone: (03) 9347 9777

Fax: (03) 9347 3385

Email: [service@fedfa.cfmeu.asn.au](mailto:service@fedfa.cfmeu.asn.au)

Dear Mr Jenkins

Lodgement of Prescribed Information  
Section 189, RAO Schedule

I refer to my letters to you of 4 May 2004 and 30 June 2004 and to your reply dated 30 June 2004.

I now enclose the prescribed information in relation to our forthcoming Divisional Branch elections.

It has not been possible for us to lodge the prescribed information before now because it was necessary for our Divisional Branch Council to determine several matters relating to the forthcoming elections, and the Council only met on 20 July 2004.

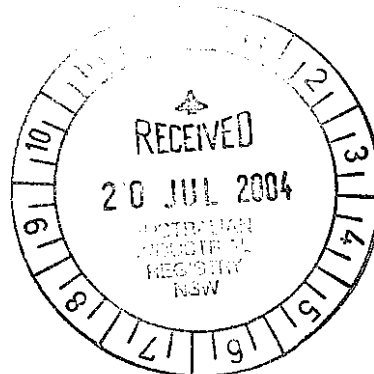
Accordingly I seek that you exercise your discretion under s189(2) of the RAO Schedule to allow us to lodge the prescribed information now.

Please advise me in writing whether you are prepared to exercise your discretion in that manner.

Yours faithfully

**Tom Watson**  
Divisional Branch Secretary

20 July 2004



*Workplace Relations Act 1996*

*Schedule 1B, Subsection 189(1)  
Prescribed information in relation to elections*

In the matter of

**Elections required to be conducted for offices or positions  
in the Victorian FEDFA Divisional Branch  
of the Construction and General Division  
of the Construction, Forestry, Mining and Energy Union**

**Prescribed Information**

**1. Paragraph 138(1)(a) of the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* ("the RAO Regulations")**

The name of each office or position for which an election is required is set out in the table below. The table identifies the name of the office or position in the first column, the number of positions which have the same name in the middle column, and, in the third column, a reference to the appropriate clause of the rules of the Union by which the existence of that office or position is established, identified or provided for.

<b>Name of office or position</b>	<b>No. of positions</b>	<b>Rule</b>
Divisional Branch President	1	18(e)(iii)
Divisional Branch Vice President	1	18(e)(iii)
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference	1	18(e)(iii)
Divisional Branch Assistant Secretary	1	18(e)(iii)
Organiser	4	18(e)(iii)
Member of Divisional Branch Management Committee (Metropolitan)	3	42(a)(vi)(B)
Member of Divisional Branch Management Committee (non-Metropolitan)	1	42(a)(vi)(B)
Divisional Branch Delegate to Divisional Conference	3	8(iv)
Member of Divisional Branch Council (Metropolitan District)	5	40(2)(vi)(b)(a)
Member of Divisional Branch Council (Country/Provincial District)	3	40(2)(vi)(b)(b)
Member of Divisional Branch Council (Latrobe Valley Sub-Branch)	1	40(2)(vi)(b)(c)

**2. Paragraph 138(1)(b) of the RAO Regulations**

The reason for the election, in relation to each of the offices or positions referred to in the table in the preceding paragraph, is that the term of the office or position is due to expire in the normal course of events

**3. Paragraph 138(1)(c) of the RAO Regulations**

Some of the offices or positions for which an election is required have the same name. Those offices or positions are identified in the table in section 1 hereof, and are identifiable by reference to the number in the middle column of that table.

**4. Paragraph 138(1)(d) of the RAO Regulations**

With respect to all of the offices or positions referred to in section 1 hereof, other than the offices or positions specified in the following table, the electorate is the whole of the membership of the Branch.

In the following table, offices or positions are specified in which the relevant electorate is a subset of the membership of the Branch. The first column identifies the office or position, and the second column identifies the electorate.

Member of Divisional Branch Management Committee (Metropolitan)	Metropolitan District, as defined in rule 40(2)(vi)(b)(a)
Member of Divisional Branch Management Committee (non-Metropolitan)	All members other than those in the Metropolitan District, as defined in rule 40(2)(vi)(b)(a)
Member of Divisional Branch Council (Metropolitan District)	Metropolitan District, as defined in rule 40(2)(vi)(b)(a)
Member of Divisional Branch Council (Country/Provincial District)	Members not residing within either the Metropolitan District (as defined in rule 40(2)(vi)(b)(a)) or the Latrobe Valley Sub-Branch (as defined by rule 63A(i))
Member of Divisional Branch Council (Latrobe Valley Sub-Branch)	Latrobe Valley Sub-Branch, as defined by rule 63A(i)

**5. Paragraph 138(1)(e) of the RAO Regulations**

In the table set out below, the date and time of the beginning and end of the period in which nominations of candidates will be called for and may be made

-3-

under the rules of the Branch in relation to the election of each of the offices or positions referred to in section 1 hereof is given.

Event	Date specified in rules	Time specified in rules	Rule
Opening of Nominations	"Last day of August", Tuesday 31 August 2004	Not specified	38(c)
Close of Nominations	"Second last Friday of September", 17 September 2004	4.00pm	38(e)

With respect to the opening of nominations, it is noted that the terms of the relevant subrule are unsatisfactory. The first paragraph of rule 38(c) reads as follows:

*Nominations for the above positions shall be called by the Divisional Returning Officer by notification in the union journal or in one daily newspaper circulating in the Divisional Branch area on or before the last day of August 1996.*

It can be observed that, if applied literally, rule 38(c) produces an absurdity. It is submitted that that paragraph should be read as if the reference to "1996" were followed by the words "and each four years thereafter following that date". That approach is consistent with the language of the subrule concerning the close of nominations, subrule 38(e).

#### 6. Paragraph 138(1)(f) of the RAO Regulations

Subrule 38(p) provides, *inter alia*, that "[f]or the purposes of the election, the books of the Divisional Branches shall be deemed to have closed eight (8) days before the date on which nominations open (the electoral roll closure date)."

In the case of the elections which are the subject of the prescribed information hereby provided, nominations open on Tuesday 31 August 2004.

Accordingly, by operation of subrule 38(p), the day provided for in the rules of the organisation as the day on which the roll of voters is to be closed is Monday 23 August 2004.


#### 7. Paragraph 138(1)(g) of the RAO Regulations

The kind of voting system to be used in the conduct of the election, in respect of each of the offices or positions referred to in section 1 hereof, is a direct voting system.

## 8. Subregulation 138(2) of the RAO Regulations

The information in this document is lodged under subsection 189(1) of the RAO Schedule, and I, Tom Watson, am authorised to sign this statement on behalf of the Victorian FEDFA Divisional Branch of the Construction and General Division of the Construction, Forestry, Mining and Energy Union.

Signed: .....

  
Tom Watson  
Divisional Branch Secretary  
Victorian FEDFA Divisional Branch  
Construction and General Division  
CFMEU

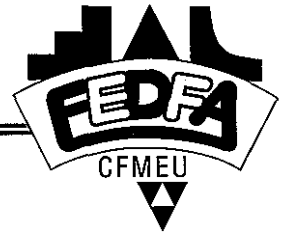
20 July 2004

Address: 34-40 Barry Street  
Carlton  
Victoria 3052

Telephone (03) 9347 9777  
Facsimile (03) 9347 3385

# Construction Forestry Mining & Energy Union

FEDFA – Victorian Divisional Branch



Mr Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8, Terrace Towers  
80 William Street  
East Sydney NSW 2011

By Fax: (02) 9380 6090

ABN 40 943 811 848

34-40 Barry Street,  
Carlton Victoria 3053

Telephone: (03) 9347 9777

Fax: (03) 9347 3385

Email: [service@fedfa.cfmeu.asn.au](mailto:service@fedfa.cfmeu.asn.au)

Dear Mr Jenkins

Lodgement of Prescribed Information  
Section 189, RAO Schedule

I refer to my letters to you of 4 May 2004 and 30 June 2004 and to your reply dated 30 June 2004.

I now enclose the prescribed information in relation to our forthcoming Divisional Branch elections.

It has not been possible for us to lodge the prescribed information before now because it was necessary for our Divisional Branch Council to determine several matters relating to the forthcoming elections, and the Council only met on 20 July 2004.

Accordingly I seek that you exercise your discretion under s189(2) of the RAO Schedule to allow us to lodge the prescribed information now.

Please advise me in writing whether you are prepared to exercise your discretion in that manner.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Tom Watson'.

**Tom Watson**  
**Divisional Branch Secretary**

20 July 2004

*Workplace Relations Act 1996*

*Schedule 1B, Subsection 189(1)  
Prescribed information in relation to elections*

In the matter of

**Elections required to be conducted for offices or positions  
in the Victorian FEDFA Divisional Branch  
of the Construction and General Division  
of the Construction, Forestry, Mining and Energy Union**

**Prescribed Information**

**1. Paragraph 138(1)(a) of the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* (“the RAO Regulations”)**

The name of each office or position for which an election is required is set out in the table below. The table identifies the name of the office or position in the first column, the number of positions which have the same name in the middle column, and, in the third column, a reference to the appropriate clause of the rules of the Union by which the existence of that office or position is established, identified or provided for.

<b>Name of office or position</b>	<b>No. of positions</b>	<b>Rule</b>
Divisional Branch President	1	18(e)(iii)
Divisional Branch Vice President	1	18(e)(iii)
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference	1	18(e)(iii)
Divisional Branch Assistant Secretary	1	18(e)(iii)
Organiser	4	18(e)(iii)
Member of Divisional Branch Management Committee (Metropolitan)	3	42(a)(vi)(B)
Member of Divisional Branch Management Committee (non-Metropolitan)	1	42(a)(vi)(B)
Divisional Branch Delegate to Divisional Conference	3	8(iv)
Member of Divisional Branch Council (Metropolitan District)	5	40(2)(vi)(b)(a)
Member of Divisional Branch Council (Country/Provincial District)	3	40(2)(vi)(b)(b)
Member of Divisional Branch Council (Latrobe Valley Sub-Branch)	1	40(2)(vi)(b)(c)

**2. Paragraph 138(1)(b) of the RAO Regulations**

The reason for the election, in relation to each of the offices or positions referred to in the table in the preceding paragraph, is that the term of the office or position is due to expire in the normal course of events

**3. Paragraph 138(1)(c) of the RAO Regulations**

Some of the offices or positions for which an election is required have the same name. Those offices or positions are identified in the table in section 1 hereof, and are identifiable by reference to the number in the middle column of that table.

**4. Paragraph 138(1)(d) of the RAO Regulations**

With respect to all of the offices or positions referred to in section 1 hereof, other than the offices or positions specified in the following table, the electorate is the whole of the membership of the Branch.

In the following table, offices or positions are specified in which the relevant electorate is a subset of the membership of the Branch. The first column identifies the office or position, and the second column identifies the electorate.

Member of Divisional Branch Management Committee (Metropolitan)	Metropolitan District, as defined in rule 40(2)(vi)(b)(a)
Member of Divisional Branch Management Committee (non-Metropolitan)	All members other than those in the Metropolitan District, as defined in rule 40(2)(vi)(b)(a)
Member of Divisional Branch Council (Metropolitan District)	Metropolitan District, as defined in rule 40(2)(vi)(b)(a)
Member of Divisional Branch Council (Country/Provincial District)	Members not residing within either the Metropolitan District (as defined in rule 40(2)(vi)(b)(a)) or the Latrobe Valley Sub-Branch (as defined by rule 63A(i))
Member of Divisional Branch Council (Latrobe Valley Sub-Branch)	Latrobe Valley Sub-Branch, as defined by rule 63A(i)

**5. Paragraph 138(1)(e) of the RAO Regulations**

In the table set out below, the date and time of the beginning and end of the period in which nominations of candidates will be called for and may be made



under the rules of the Branch in relation to the election of each of the offices or positions referred to in section 1 hereof is given.

Event	Date specified in rules	Time specified in rules	Rule
Opening of Nominations	"Last day of August", Tuesday 31 August 2004	Not specified	38(c)
Close of Nominations	"Second last Friday of September", 17 September 2004	4.00pm	38(e)

With respect to the opening of nominations, it is noted that the terms of the relevant subrule are unsatisfactory. The first paragraph of rule 38(c) reads as follows:

*Nominations for the above positions shall be called by the Divisional Returning Officer by notification in the union journal or in one daily newspaper circulating in the Divisional Branch area on or before the last day of August 1996.*

It can be observed that, if applied literally, rule 38(c) produces an absurdity. It is submitted that that paragraph should be read as if the reference to "1996" were followed by the words "and each four years thereafter following that date". That approach is consistent with the language of the subrule concerning the close of nominations, subrule 38(e).

#### 6. Paragraph 138(1)(f) of the RAO Regulations

Subrule 38(p) provides, *inter alia*, that "[f]or the purposes of the election, the books of the Divisional Branches shall be deemed to have closed eight (8) days before the date on which nominations open (the electoral roll closure date)."

In the case of the elections which are the subject of the prescribed information hereby provided, nominations open on Tuesday 31 August 2004.


Accordingly, by operation of subrule 38(p), the day provided for in the rules of the organisation as the day on which the roll of voters is to be closed is Monday 23 August 2004.

#### 7. Paragraph 138(1)(g) of the RAO Regulations

The kind of voting system to be used in the conduct of the election, in respect of each of the offices or positions referred to in section 1 hereof, is a direct voting system.

**8. Subregulation 138(2) of the RAO Regulations**

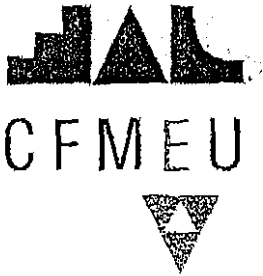
The information in this document is lodged under subsection 189(1) of the RAO Schedule, and I, Tom Watson, am authorised to sign this statement on behalf of the Victorian FEDFA Divisional Branch of the Construction and General Division of the Construction, Forestry, Mining and Energy Union.

Signed:  .....  
Tom Watson  
Divisional Branch Secretary  
Victorian FEDFA Divisional Branch  
Construction and General Division  
CFMEU

20 July 2004

Address: 34-40 Barry Street  
Carlton  
Victoria 3052

Telephone (03) 9347 9777  
Facsimile (03) 9347 3385



22 July, 2004.

Deputy Industrial Registrar  
 Australian Industrial Registry  
 80 William Street  
 SYDNEY 2000.

CONSTRUCTION

FORESTRY

MINING

ENERGY

UNION

Attention: Mr. B. Jenkins.

Dear Sir,

**Re: CFMEU Construction and General Division –  
 Elections**

In accordance with Regulation 138 of the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* the CFMEU Construction and General Division hereby provides the following information:-

**1. Name of Offices in Respect of Which an Election is Required**

**Queensland Construction Workers Divisional Branch**

Divisional Branch President  
 Divisional Branch Vice-President (3)  
 Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
 Divisional Branch Assistant Secretary (Plasterers)/ Divisional Branch Delegate to Divisional Conference  
 Divisional Branch Assistant Secretary (Painters)/ Divisional Branch Delegate to Divisional Conference  
 Divisional Branch Assistant Secretary  
 Divisional Branch Executive Member (3)  
 State Management Committee Member (16)  
 Divisional Branch Delegate to Divisional Conference (5)

**Queensland Builders Labourers Divisional Branch**

Divisional Branch President  
 Divisional Branch Vice-President

  
 CONSTRUCTION &  
 GENERAL DIVISION  
 ABN 46 243 168 565

JOHN SUTTON  
 National Secretary

FEDERAL OFFICE  
 LEVEL 2  
 15 WENTWORTH AVENUE  
 SYDNEY NSW 2000

PO BOX Q235  
 QUEEN VICTORIA BLDG  
 POST OFFICE  
 SYDNEY NSW 1230

PH: (02) 9267 7644  
 FAX: (02) 9267 8863  
 WEB:

[www.cfmeu.asn.au/construction](http://www.cfmeu.asn.au/construction)

Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Trustee (2)  
Divisional Branch Treasurer  
Divisional Branch Guardian  
Divisional Branch Executive Member (4)  
Divisional Branch Delegate to Divisional Conference (2)

**New South Wales Divisional Branch**

Divisional Branch President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Council Members (36) comprising –  
    Sydney Zone (27)  
    Newcastle Zone (3)  
    Wollongong Zone(3)  
    Country Zone (3)

Divisional Branch Management Committee Member (26)  
Divisional Branch Delegate to Divisional Conference (13)

**ACT Divisional Branch**

Divisional Branch President  
Divisional Branch Vice-President (2)  
Divisional Branch Secretary/Divisional Branch Treasurer/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (Plasterer)/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Council Member (9)  
Divisional Branch Management Committee Member (11)

**South Australian Divisional Branch**

Divisional Branch Senior Vice-President/Divisional Branch Delegate to Divisional Conference  
Divisional Branch President  
Divisional Branch Vice-President

Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Treasurer  
Divisional Branch Trustee (2)  
Divisional Branch Management Committee Member (5)  
Divisional Branch Organiser/Divisional Branch Management Committee Member (2)  
Divisional Branch Council Member (13)  
Divisional Branch Delegate to Divisional Conference (1)

**Western Australia Divisional Branch**

Divisional Branch President  
Divisional Branch Senior Vice-President  
Divisional Branch Vice-President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Trustee (3)  
Divisional Branch Treasurer  
Divisional Branch Council Member (20)  
Divisional Branch Management Committee Member (5)  
Divisional Branch Delegate to Divisional Conference (3)

**Tasmanian Divisional Branch**

Divisional Branch President/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Management Committee Member (13)  
Divisional Branch Council Member (5) comprising –  
Hobart and Southern Zone (3)  
Launceston Zone (1)  
North West Zone (1)

**Brick, Tile, Pottery Construction Materials and Related Products Industry Divisional Branch**

Divisional Branch President/Divisional Branch Delegate to Divisional Conference

Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (Victoria)  
Divisional Branch Assistant Secretary (New South Wales)  
Divisional Branch Assistant Secretary (Western Australia)  
Divisional Branch Management Committee Member (New South Wales)  
Divisional Branch Management Committee Member (Victoria)

**Victorian Building Unions Divisional Branch**

Divisional Branch President  
Divisional Branch Vice-President (3)  
Divisional Branch Secretary/ Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Management Committee Member (17)  
Divisional Branch Council Member (71) comprising –

Metropolitan Melbourne Zone (58)  
Geelong Zone (4)  
Central Victoria Zone (4)  
Northern Victoria Zone (4)  
Latrobe Zone (4)

Divisional Branch Delegate to Divisional Conference (12)

**Victorian FEDFA Divisional Branch\* (see special notation hereunder)**

Divisional Branch President  
Divisional Branch Vice-President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Management Committee Member (5) comprising:-

Metropolitan District (3)  
Non-metropolitan District (1)  
Organiser's Representative (1)

Divisional Branch Council Member (8) comprising:-

Metropolitan District (5)  
Country/Provincial District (3)  
Latrobe Valley Sub-Branch (1)

Divisional Branch Delegate to Divisional Conference (2)

**2. Reason for the Election**

An election is required because of the expiry of the current term of office of the existing officers.

**3. Number of Offices with the Same Name**

The number of such offices is set out at 1. above with the number appearing in brackets.

**4. Electorate**

Members of each of the Divisional Branches referred to in 1. above vote for representatives of their Divisional Branches in accordance with the rules.

**5. Nomination Period**

The rules provide that nominations will open on or before Tuesday 31 August, 2004 and close at 4.00pm Friday 17 September, 2004.

**6. Closure of Voting Roll**

The rules provide that the roll of voters shall be deemed to have closed 8 days before the date on which nominations open i.e. 8 days before 31 August, 2004.

**7. Voting System**

A direct voting system is to be employed in the conduct of the election. In the case of the Victorian FEDFA Divisional Branch Organiser's representative on the Divisional Branch Management Committee, a collegiate electoral system is to be employed pursuant to rule 37(vi)(b). In the case of the Queensland Construction Workers Divisional Branch Vice-Presidents and Divisional Branch Executive members, a collegiate electoral system is to be employed pursuant to rules 40(2)(iii)(B) and 42(iii)(a) respectively.

The information herein is provided under subsection 189(1) of the *RAO Schedule*.

**Victorian FEDFA Divisional Branch**

We also wish to advise that in the case of the Victorian FEDFA Divisional Branch, the rules provide that the maximum term of office for each of the offices referred to above in respect of that Divisional Branch is until 30 September, 2005 [see esp. Construction and General Division rules, Rule 18(e)(ii)]. Rule 38(ee) also provides that holders of various

offices within the Victorian FEDFA Divisional Branch shall, upon the merger of the two Victorian Divisional Branches, occupy the offices in the merged Divisional Branch as set out in that rule. It may be necessary to make explicit reference to this in any election notice for these offices so that potential candidates are aware of these provisions.

#### **Rule 8 – Construction and General Division Rules**

We draw your attention to Rule 8(vii) which relevantly provides that certain officers may nominate in Divisional Branch elections provided that a Divisional Branch Secretary is notified in writing prior to the date of calling for nominations. The information above relating to Divisional Branch delegates to Divisional Conference takes this provision into account. The number of such delegates is specified on the basis that each of the Divisional Secretary, Divisional President and Divisional Assistant Secretaries (2) have or will, by the time of the calling of nominations, notified/notify the Divisional Branch Secretary of the Divisional Branch from which they derive, of their intention to nominate for the office of Divisional Branch delegate to Divisional Conference.

#### **Other Positions**

The rules of the CFMEU Construction and General Division also require that an election be held for various positions which are not offices as defined by s 9 of the *RAO Schedule*. In accordance with s 187 of the *RAO Schedule* we hereby request that the AEC conduct an election for the following positions within the specified Divisional Branches at the same time as the election for the above offices:-

**(a) Queensland Construction Workers Divisional Branch**

Divisional Branch Organiser (17)

**(b) Queensland Builders Labourers Divisional Branch**

Divisional Branch Organiser (10)

**(c) New South Wales Divisional Branch**

Divisional Branch Organiser (26)

**(d) ACT Divisional Branch**

Divisional Branch Organiser (1)

**(e) Western Australia Divisional Branch**



- Divisional Branch Organiser (6)  
(f) **Victorian Building Unions Divisional Branch**

Divisional Branch Organiser (13)

- (g) **Victorian FEDFA Divisional Branch**

Divisional Branch Organiser (4)

We also refer to your letter dated 1 July, 2004 in which you granted a 14 day extension of time in which to lodge this information and foreshadowed the possibility of a further short extension given the rule alterations being considered by the Registry. We have today received the Registry's certificates in respect of those changes and consequently ask that a further extension be granted to today's date in respect of the information set out herein.

Yours faithfully,



John Sutton  
National Secretary  
CFMEU Construction and General Division



Australian Government  
Australian Industrial Registry

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 6374 6666  
Fax: (02) 9380 6990

Mr John Sutton  
National Secretary  
CFMEU  
Construction and General Division  
PO Box Q235  
QUEEN VICTORIA BUILDING NSW 1230

Dear Mr Sutton

**CFMEU - Construction and General Division Elections (E2004/244)**

I refer to the prescribed information lodged in the Registry on 22 July 2004 for elections for offices and other positions specified.

I have considered the information and the Federal and Divisional rules of the union. As explained below, before determining this matter I will require additional information. I also seek your comments on various matters.

South Australian Divisional Branch

The prescribed information states the number of (additional) members of Divisional Branch Council required to be elected is 13. Sub-rule 42(a)(vii) sets out the composition of the Branch's management committee. The total number of members of which the committee "consists" appears to be 16. Therefore it would appear that the requirement in sub-rule 40 (2)(vii) that the Branch Council "shall consist of the Divisional Branch Committee of Management together with an *equal number* of delegates" means that 16 not 13 additional members or delegates must be elected.

Victorian Building Unions Divisional Branch

Sub-rule 40(vi)(a) B provides for the composition of the Branch Council which comprises the Branch Management Committee and a number of "Zone Delegates" or "Zone Councillors" as they also appear to be described. Sub-rule 40(vi)(a) C provides for a formula for determining the number of delegates or councillors to which a particular Zone is entitled by reference to financial members "attached to the zone as at 5.00 p.m. on 30 July preceding the calling of nominations...".

The prescribed information states that the total number to be elected from all Zones is 71 and also lists against each Zone the number to be elected from that Zone. However, no figures for membership of each Zone are provided at the relevant date of 30 July 2004.

Please provide the membership figures for each Zone at the relevant date.

Victorian FEDFA Divisional Branch

The Registry received on 20 July 2004 prescribed information from the Divisional Branch Secretary of this Branch (E2004/242). I enclose a copy for your information. The prescribed information lodged by the Branch differs in the following respects from that lodged by the Division.

Office	FEDFA lodgement E2004/242	C&G Division lodgement
Members of Divisional Branch Management Committee	4	5
Organiser's Representative	Not referred to	1 (included as one of 5 members of committee of management above)
Delegates to Divisional Conference	3	2

Sub-rule 18(e)(iii) provides for the "offices" of the Divisional Branch which include 4 "Branch Management Committee Members" and also provides for an "Organiser's representative" on the committee. The organiser's representative is elected pursuant to sub-rule 37(vi)(a) "as soon as practicable after the branch elections".

Although the organiser's representative is not elected until after the branch elections when the composition of the college of branch organisers is determined, I believe there is nothing to prevent the organisation including it in the prescribed information. However, the FEDFA prescribed information does not call for an election for this position. If you have any comment on this matter, please provide it.

You will also note that the prescribed information lodged by FEDFA states that 3 delegates to Divisional Branch Conference are required whereas that lodged by the Division states 2. Please provide your comments on this matter.

#### Divisional Branch Delegates to Divisional Conference

The prescribed information for each Branch states a number of delegates required to be elected by members of each Branch to the Divisional Conference. There is no indication of how these entitlements have been determined. The number of delegates which must be elected is provided for in sub-rule 8(iii) and the method of determining the number of members of each branch is found in sub-rule 8(iv).

To assist me determine this matter, please provide:

- for each branch:
  - the amount of Divisional Branch income referred to in rule 14(j) received for each of the three years prior to 2004
  - the amount of the annual contribution for each year
- your working of the formula which is applied to produce the average number of notional members for the purposes of determining entitlements
- details of any branches to which it is considered the formula or method of determining entitlement in the second or third paragraph of sub-rule 8(iv) applies and your reasons.

If you wish to discuss any of these matters, please contact me on (02) 8374 6666 or in my absence, Peter McKerrow.

Yours sincerely



Barry Jenkins  
Deputy Industrial Registrar

9 August 2004



Australian Government

Australian Industrial Registry

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 8374 6666  
Fax: (02) 9380 6990

# FACSIMILE

TO	Mr Tom Watson, Divisional Branch Secretary		
Organisation	CFMEU - FEDFA Victorian Divisional Branch		
Fax Number	03 9347 3385	Phone Number	
FROM	Barry Jenkins		
Email	peter.mckerrow@air.gov.au		
Location	AIR Sydney		
Fax Number	02 9380 6990	Phone Number	02 8374 6666
No of Pages (including cover)	11	Date	9/08/2004
Please notify sender if not all pages were received.		Time	4:52 PM

Any information about individuals contained in this fax is **CONFIDENTIAL** and may **NOT** be used or disclosed further. If you are **NOT** the intended recipient, please contact the sender **IMMEDIATELY**.

## MESSAGE:

Dear Mr Watson  
Please find letter and attachments from the Deputy Industrial Registrar concerning the Divisional Branch Elections.

Peter McKerrow

THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
064	MEMORY TX		0393473385	11/11	OK

## ERRORS

1) HANG UP OR LINE FAIL 2) BUSY 3) NO ANSWER 4) NO FACSIMILE CONNECTION

**Australian Government****Australian Industrial Registry**

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 8374 6666  
Fax: (02) 9380 6990

**FACSIMILE**

TO	Mr Tom Watson, Divisional Branch Secretary		
Organisation	CFMEU - FEDFA Victorian Divisional Branch		
Fax Number	03 9347 3385	Phone Number	
FROM	Barry Jenkins		
Email	peter.mckefrow@air.gov.au		
Location	AIR Sydney		
Fax Number	02 9380 6990	Phone Number	02 8374 6666
No of Pages (including cover)	11	Date	9/08/2004
Please notify sender if not all pages were received.		Time	4:52 PM

Any information about individuals contained in this fax is **CONFIDENTIAL** and may NOT be used or disclosed further. If you are NOT the intended recipient, please contact the sender **IMMEDIATELY**.

**MESSAGE:**

Dear Mr Watson,  
Please find letter and attachments from the Deputy Industrial Registrar concerning the Divisional



**Australian Government**

**Australian Industrial Registry**

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 8374 6666  
Fax: (02) 9380 6990

Mr Tom Watson  
Divisional Branch Secretary  
CFMEU  
FEDFA Victorian Divisional Branch  
34 - 40 Barry St  
CARLTON VIC 3053

Dear Mr Watson

**E2004/242 - Election FEDFA Divisional Branch**

I refer to your the prescribed information lodged by your Branch on 20 July 2004. As you may be aware, I have also received within the lodgement of the Construction and General Division (E2004/244) prescribed information relating to offices within your Branch. I enclose a copy of that information and my letter of 9 August 2004 to the National Divisional Secretary.

As you will note, the prescribed information lodged by the Branch and the Division differs in certain respects. I would appreciate your comments on the issues I have raised in relation to your Branch.

If you wish to discuss any of these matters, please contact me on (02) 8374 6666 or in my absence, Peter McKerrow.

Yours sincerely

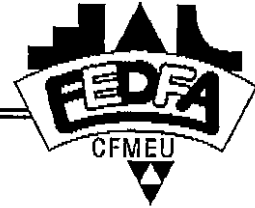
A handwritten signature in cursive script, appearing to read 'Barry Jenkins'.

Barry Jenkins  
Deputy Industrial Registrar

9 August 2004  
enc.

**Construction Forestry Mining & Energy Union**

FEDFA - Victorian Divisional Branch



Mr Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8, Terrace Towers  
80 William Street  
EAST SYDNEY NSW 2011

ABN 40 943 811 848

34-40 Barry Street,  
Carlton Victoria 3053

Telephone: (03) 9347 9777

Fax: (03) 9347 3385

Email: [service@fedfa.cfmeu.asn.au](mailto:service@fedfa.cfmeu.asn.au)

By fax: (02) 9380 6990

Dear Mr Jenkins

Re: E2004/242 – Election FEDFA Divisional Branch, Construction & General Division,  
CFMEU

I refer to previous correspondence and acknowledge receipt of your letter of 9 August 2004. I respond to your queries below:

(a) Delegates to Divisional Conference

As you note in your letter to John Sutton of 9 August 2004, the method of determining the number of members of a Divisional Branch for the purposes of sub-rule 8(iii) is found in sub-rule 8(iv). The formula is based on Divisional Branch income and the amount of the annual contribution in each of the three years prior to 2004.

Our Divisional Branch however only came into existence on 28 October 2003. Our situation is therefore governed by the second paragraph of sub-rule 8(iv) because our Divisional Branch has not existed for three years.

The amount of income referred to in rule 14(i) received by our Divisional Branch in the half-year from 1 January 2004 to 30 June 2004, excluding GST, was \$901,173. The formula in the second paragraph of sub-rule 8(iv) provides that this income be multiplied by two, giving a total of \$1,802,346. The annual contribution is \$300.

The formula therefore produces a nominal membership of 6,007.82, which according to the formula provided in sub-rule 8(iii) entitles our Divisional Branch to 4 delegates, including the Divisional Branch Secretary.

(b) Organiser's representative

As you write in your letter to John Sutton, the organisers' representative is elected as soon as practicable after the branch elections by and from the organisers elected in that election (sub-rule 37 (vi)(b)). The organisers so elected do not take office until 2 January 2005, and so I had in mind that the election of the organisers' representative would be held soon after that date.

However, I have no objection to the election for organisers' representative being included in the present prescribed information.

If you have any queries or require any further information, please do not hesitate to contact me.

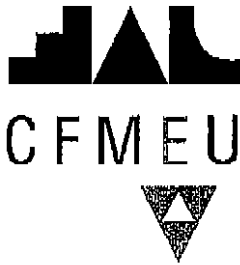
Yours faithfully



Tom Watson  
Branch Secretary

12 August 2004





11 August, 2004.

**CONSTRUCTION**

**FORESTRY**

**MINING**

**ENERGY**

**UNION**

Deputy Industrial Registrar  
 Australian Industrial Registry  
 Level 8, 80 William Street  
 EAST SYDNEY NSW 2011

Attn: Mr. B. Jenkins.

Dear Mr Jenkins,

**Re: CFMEU – C&G Division Elections (E2004/244)**

I refer to your correspondence dated 9 August 2004, and respond to each of the issues you have raised as follows:

**South Australian Division Branch**

I accept that pursuant to Rule 42(a)(vii) the Divisional Branch Management Committee consists of 16 members and that therefore in addition to those members, the number of additional Branch Council members is, by virtue of Rule 40(2)(vii), 16. I ask that the prescribed information be amended accordingly.

**Victorian Building Unions Divisional Branch**

On the basis of the most recent information provided by this Divisional Branch with respect to these zones I advise that the financial membership of the respective zones referred to in Rule 40(vi)(a) is as follows:

Metropolitan Melbourne Zone	19,412
Geelong Zone	1,358
Central Victoria Zone	539
Northern Victoria Zone	240
La Trobe Zone	563

By application of the formula set out in Rule 40(vi)(a)C the total number of Zone Delegates is 74, consisting of

Metropolitan Melbourne Zone	58
Geelong Zone	4
Central Victoria Zone	4
Northern Victoria Zone	4
La Trobe Zone	4



CONSTRUCTION &  
 GENERAL DIVISION  
 ABN 46 243 168 565

JOHN SUTTON  
 National Secretary

**FEDERAL OFFICE**  
 LEVEL 2  
 15 WENTWORTH AVENUE  
 SYDNEY NSW 2000

PO BOX Q235  
 QUEEN VICTORIA BLDG  
 POST OFFICE  
 SYDNEY NSW 1230

PH: (02) 9267 7644  
 FAX: (02) 9267 8863  
 WEB:

[www.cfmeu.asn.au/construction](http://www.cfmeu.asn.au/construction)

I ask that the prescribed information be amended accordingly.

#### **Victorian FEDFA Divisional Branch**

The difference in relation to the Divisional Branch Management Committee arises as a consequence of the Organisers' representative as identified in your correspondence. I note that the election for this position is conducted "as soon as practicable after the branch elections" [Rule 37(vi)(b)] and that the total number of Divisional Branch Management Committee members would be 9 on completion of the election for this position. On this basis I do not consider that there is any material difference between the information lodged by this office and that lodged by the Divisional Branch.

#### **Divisional Branch Delegates to Divisional Conference**

I turn now to your request for information which you state will assist in your determination following my advice to you of information prescribed by Reg. 138 of the RAO Regulations and provided under s.189(1) of Schedule 1B of the Act.

I note that you have received correspondence dated 20 July 2004 from the Divisional Branch Secretary of the FEDFA Divisional Branch of the Division that purports to be a "Lodgement of Prescribed Information" pursuant to Section 189 of Schedule 1B. I further note that you have received a letter dated 3 August 2004 from the Victorian Divisional Branch Secretary of the Division in which representations are made to you as to the prescribed information I lodged in respect of the Division on 22 July 2004.

May I draw your attention to the relevant provisions of CFMEU rules in relation to the provision to the AIRC of required information under the Act or Regulations.

1. Rule 27 of the National Rules of the CFMEU provides that each Division of the Union shall have autonomy to decide matters including "*the election of officers within the Division*".
2. Rule 33 of the National CFMEU Rules dealing with the Registered Officer of the Union provides in paragraph (iii):

*"Nothing in this rule affects the operation of any other rule relating to the powers of a Division or Divisional Branch Secretary."*

3. Rule 13(ii) of the Rules of the Construction and General Division provides:

*"The Divisional Secretary shall be responsible for the general correspondence of the Division, Divisional Finance, filing of documents for the Division, industrial returns that are required by the Division and the carrying out of decisions made by the Divisional Conference or Divisional Executive or by the National Conference or National Executive". (Emphasis added.)*

It follows that I as the Divisional Secretary have sole responsibility for the filing of prescribed information in reg.138 of the RAO Regulations and have done so by my letter

and attachments of 22 July 2004. The communication to you of that date from Mr Watson on behalf of the FEDFA Divisional Branch has no status under, and is contrary to, the rules of the Division. I would thus respectfully suggest that in these circumstances you can have no regard to Watson's communication to you.

I turn now to your determination as to whether elections in the Division are required, following my lodgement of the prescribed information. I regret that others in the Division have chosen to write to you and seek to involve the Industrial Registrar in relation to my duty under the rules of the Division and the requirement under the Act for the Division to provide the prescribed information. In these circumstances I have felt it necessary to here summarise the provisions of the Act and the Regulations dealing with the calling of elections in registered organisations.

Once the prescribed information has been lodged under s.189(1), s.189(3)(b) provides that the Registrar must be, "*satisfied that an election is required to be held under the rules of the organisation or branch*". If so, s.193 provides that, "*a Registrar must arrange for the conduct of the election by the AEC*". I note that Regulation 138(1)(c) of the RAO Regulations requires that if the number of positions for which an election is required can be determined before the prescribed day, the number of positions to be filled in the election is prescribed information that must be provided by the organisation or branch.

I have provided that prescribed information to you on 22 July 2004. Unfortunately some of my colleagues have chosen to question the accuracy of that prescribed information or to raise other issues with you in relation to what I have done. I respectfully suggest that there are other remedies available to any member of the Division if he or she wishes to challenge my actions in this regard or to challenge a resulting election. What is not open to challenge is that I have provided the prescribed information that I am under a duty to provide. I confirm that I have acted at all times in a bona fide manner in relation to those duties.

In my view the Act and the Regulations make it clear that there can be no opportunity for the Industrial Registrar to make further inquiries as to the basis for the particular prescribed information provided pursuant to s.189(1) of Schedule 1B of the Act, despite the pressure on you to do so from some of my colleagues in this particular instance. I respectfully suggest that it is clear from the rules of the Division and the prescribed information I have provided that an election is required for Branch Delegates to the Divisional Conference. If you do not agree you are not able to arrange for the conduct of the election by the AEC. If you agree with my submission that an election is required, it is your duty to arrange for that election to be conducted.

Having made clear our view of the Act and your functions under it, I nevertheless do not want to depart from my past practice of seeking to assist you in the performance of your functions and am happy to provide all of the information in this letter. However, for the reasons I have set out above, I do not believe that the information below as to your queries can have any relevance to your decision as to whether or not an election is required. Nor can it be the subject of a debate between the Registry and the responsible officer of the Division providing the prescribed information, myself, and other members of or office-holders within the Division.

Attachment 1 sets out the information you require for the determination of Divisional Branch Delegates to Divisional Conference and answers your first two dot points.

In relation to the last dot point you will be aware that the rule alterations that created the Victorian FEDFA Divisional Branch as part of the Construction & General Division were certified by the Registry on 28 October 2003 [R No 2003/60]. The Divisional Branch did not exist within the Division for a full half year in the 2003 year. That being the case the approach that has been adopted has been to divide the audited income from contributions for 2003 by the amount of contributions that applied from the period 28 October 2003 to 31 December 2003.

Should you require any further information please contact this office.

Yours faithfully,



John Sutton  
National Secretary  
Construction & General Division

Attch.

**CFMEU**  
**Construction and General Division**  
**Divisional Branch Delegates to Divisional Conference**

**Formula - Rule 8 (iv) Construction and General Division Rules**

Average number of members = 
$$\frac{\text{sum of number of members per annum for 3 years}}{3}$$

Where: Number of members = 
$$\frac{\text{annual income per annum}}{\text{annual contributions}}$$

Divisional Branch	Annual Contributions (\$)			Annual Income (\$)		
	2001	2002	2003	2001	2002	2003
<b>1. Victoria</b> Average number of members = 23,816 Divisional Conference Delegates including Divisional Branch Secretary = 12 Divisional Officer as Divisional Conference Delegate as per Rule 8 (vii) = 1	290.91	300	318.18	6,564,439	7,291,209	7,820,876
<b>2. Queensland Construction Workers</b> Average number of members = 9,918 Divisional Conference Delegates including Divisional Branch Secretary = 5 Divisional Officer as Divisional Conference Delegate as per Rule 8 (vii) = 1	357.27	370	385.45	3,419,915	3,669,434	3,956,273

16-AUG-2004 10:43 FROM CFMEU C&G NAT OFFICE TO 93806990 P.06/08

Divisional Conference Delegates as per Rule 8 (ii) = 2						
<b>3. Western Australia</b> Average number of members = 7,172 Divisional Conference Delegates including Divisional Branch Secretary = 4	380.90	392.72	410.91	2,787,348	2,764,783	2,941,760
<b>4. South Australia</b> Average Number of members = 2,758 Divisional Conference Delegates including Divisional Branch Secretary = 2 Divisional Conference Delegate as per Rule 8 (ii) = 1	266.36	278.18	310	696,483	783,809	880,892
<b>5. Victoria FEDFA</b> Average number of members = 5,198 Divisional Conference Delegates including Divisional Branch Secretary = 3	-	-	300	-	-	1,559,658
<b>6. NSW</b> Average number of members = 22,992 Divisional Conference Delegates including Divisional Branch Secretary = 12 Divisional Officer as Divisional Conference Delegate as per Rule 8 (vii) = 2	309.09	327.27	340.91	6,404,539	6,701,971	9,470,743
<b>7. Queensland Builders Labourers</b> Average number of members = 5,653	377.27	395.45	413.64	1,992,618	2,191,249	2,538,189

Divisional Conference Delegates including Divisional Branch Secretary = 3						
<b>8. ACT</b>  Average number of members = 1,630  Divisional Conference Delegates including Divisional Branch Secretary = 1  Divisional Conference Delegate as per Rule 8 (ii) = 1	300	304.55	340.91	490,143	503,249	546,768
<b>9. Tasmania</b>  Average number of members = 829  Divisional Conference Delegates including Divisional Branch Secretary = 1  Divisional Conference Delegate as per Rule 18 (b) (iii) = 1	268.18	294.55	316.36	245,143	234,602	246,319
<b>10. Brick Tile Pottery</b>  Average number of members = 1,552  Divisional Conference Delegates including Divisional Branch Secretary = 1  Divisional Conference Delegate as per Rule 8 (ii) = 1	260	281.27	328.18	425,077	443,961	522,458



**Australian Government**  
**Australian Industrial Registry**

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 8374 6666  
Fax: (02) 9380 6990

# FACSIMILE

TO	Marcus Clayton		
Organisation	Slater and Gordon		
Fax Number	03 9670 2354	Phone Number	
FROM	Peter McKerrow		
Email	peter.mckerrow@air.gov.au		
Location	AIR Sydney		
Fax Number	02 9380 6990	Phone Number	02 8374 6666
No of Pages (including cover)	7	Date	16/08/2004
Please notify sender if not all pages were received.		Time	5:01 PM

---

Any information about individuals contained in this fax is **CONFIDENTIAL** and may **NOT** be used or disclosed further. If you are **NOT** the intended recipient, please contact the sender **IMMEDIATELY**.

---

**MESSAGE:**

Dear Mr Clayton

Attached as requested is a copy of letter to the Deputy Industrial Registrar from Mr John Sutton. This letter received by fax today is part of Registry file E2004/244.

Peter McKerrow  
Asst. Manager  
NSW Registry



THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
082	MEMORY TX		0396702354	08/08	OK

ERRORS

- 1) HANG UP OR LINE FAIL
- 2) BUSY
- 3) NO ANSWER
- 4) NO FACSIMILE CONNECTION



**Australian Government**  
**Australian Industrial Registry**

Level 8, Terrace Towers  
 80 William Street, East Sydney, NSW 2011  
 Telephone: (02) 8374 6666  
 Fax: (02) 9380 6990

# FACSIMILE

<b>TO</b>	Marcus Clayton		
<b>Organisation</b>	Slater and Gordon		
<b>Fax Number</b>	03 9670 2354	<b>Phone Number</b>	
<b>FROM</b>	Peter McKerrow		
<b>Email</b>	peter.mckerrow@air.gov.au		
<b>Location</b>	AIR Sydney		
<b>Fax Number</b>	02 9380 6990	<b>Phone Number</b>	02 8374 6666
<b>No of Pages (including cover)</b>	7	<b>Date</b>	16/08/2004
Please notify sender if not all pages were received.		<b>Time</b>	5:01 PM

Any information about individuals contained in this fax is **CONFIDENTIAL** and may **NOT** be used or disclosed further. If you are **NOT** the intended recipient, please contact the sender **IMMEDIATELY**.

**MESSAGE:**

Dear Mr Clayton



Dominion Building  
533 Little Lonsdale Street  
MELBOURNE VIC 3000

Ph: (03) 9602 6888  
Fax: (03) 9670 2354

[www.slatergordon.com.au](http://www.slatergordon.com.au)

Legal Assistant: Anna Dikees

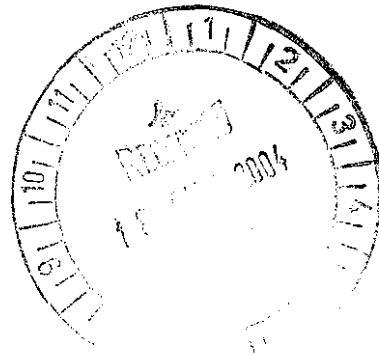
Direct Ph: (03) 9602 6959  
Fax: (03) 9670 2354

Email: [adlkees@slatergordon.com.au](mailto:adlkees@slatergordon.com.au)

### FACSIMILE

<b>To:</b>	<b>Mr Barry Jenkins</b>	<b>Date:</b>	<b>18 August 2004</b>
<b>Firm:</b>	<b>Deputy Industrial Registrar Australian Industrial Registry</b>	<b>Your ref:</b>	
<b>Fax No:</b>	<b>(02) 9380 6990</b>	<b>Our Ref:</b>	<b>ID1:276443</b>
<b>From:</b>	<b>Marcus Clayton</b>	<b>Pages:</b>	<b>4 (including cover)</b>
<b>RE:</b>	<b>CFMEU, Construction &amp; General Division, Divisional Branch elections</b>		

Letter to follow



This facsimile transmission is intended for the exclusive use of the person, firm or corporation to whom it is addressed and may contain information that by law is privileged or confidential. If the reader of this facsimile transmission is not the intended recipient, or an employee or agent responsible for delivering this facsimile transmission to the intended recipient, you are hereby notified that any disclosure, distribution or copying of this facsimile transmission is strictly prohibited and that the contents of this facsimile transmission must be kept strictly confidential. If you have received this facsimile transmission in error, kindly notify us immediately by telephone and return the original transmission to us at the above address. Thank you.



Dominion Building  
533 Little Lonsdale Street  
Melbourne Vic 3000

Ph: (03) 9602 6888  
Fax: (03) 9600 0290

[www.slatergordon.com.au](http://www.slatergordon.com.au)

Correspondence to:

Lawyer: Marcus Clayton  
Legal Assistant: Anna Dikeos

GPO Box 4864VV  
MELBOURNE 3001

DX 229 MELBOURNE

Direct Ph: (03) 9602 6959  
Fax: (03) 9670 2354

Email: [adikeos@slatergordon.com.au](mailto:adikeos@slatergordon.com.au)

Our Ref: ID1:276443

18 August 2004

Mr Barry Jenkins  
Deputy Industrial Registrar  
Australian Industrial Registry  
Level 8  
Terrace Towers  
80 William Street  
East Sydney NSW 2011

By facsimile: (02) 9380 6990

Dear Mr Jenkins

**Re: CFMEU, Construction & General Division, Divisional Branch elections**

I refer to my telephone conversations with Registry staff and confirm that I act for the Queensland Construction Labourers', South Australian, Victorian FEDFA, Victorian Building Unions and Western Australian Divisional Branches of the Construction and General Division of the CFMEU.

I acknowledge receipt of the copy of the Divisional National Secretary's letter to you of 11 August 2004 ("John Sutton's letter"), including the table attached to it in relation to Divisional Branch Delegates to Divisional Conference ("the table").

What follows below is restricted to two aspects of the prescribed information provided to you by John Sutton. However my clients reserve all their rights in relation to other aspects of the prescribed information provided, including the issue of whether the provisions of the Divisional Rules in relation to the composition of the Divisional Conference comply with the Workplace Relations Act 1996 and the RAO Schedule and regulations.

## 1. NSW Divisional Branch

The table shows a literally extraordinary increase in the annual income of the NSW Branch in 2003 compared to 2002.

The table shows an increase of about 41 per cent in annual income which, on the basis of the annual contribution shown in the table, would indicate an increase in membership in that year in the order of 8000 members.

My clients find it impossible to believe that there could have been such an increase in membership. Their incredulity is reinforced by the fact that no member of the Divisional Executive from NSW ever reported such an increase to that body. I am also instructed that there has been no mention of such an increase in membership in the NSW branch journal.

In John Sutton's letter he in effect suggests that, for the purposes of section 189(3) of the RAO Schedule, you should be satisfied by the bald information he first provided to you that the conduct of the elections for the number of Divisional Conference delegates he specified should be arranged.

My clients submit, with respect, that that proposition cannot be correct and that you are entitled to, and indeed obliged, under section 89(3) to satisfy yourself that the election of each delegate is required to be held. My clients respectfully submit that you should require further information from John Sutton about the NSW 2003 annual income figure.

Apart from your duties under section 189(3), my clients note that you have powers under sections 330 and 331 of the RAO Schedule.

## 2. Victorian FEDFA Divisional Branch

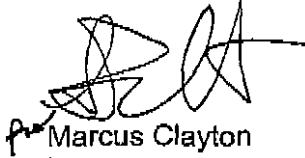
As noted in John Sutton's letter, the Victorian FEDFA Divisional Branch only came into existence on 28 October 2003. In those circumstances, my clients do not understand the reference to "the audited income from contributions for 2003" in the second last paragraph of John Sutton's letter.

The situation of the Victorian FEDFA Divisional Branch is provided for in the second paragraph of sub-rule 8(iv) of the Divisional Rules because it has not existed for three years. That paragraph specifies that the relevant Divisional Branch income shall be that received in the number of half years that the Divisional Branch has existed. In the case of the Victorian FEDFA Divisional Branch, it has existed for only one half-year, being from 1 January to 30 June 2004, given that the financial year for the Division and its Branches is that from 1 January to 31 December (Divisional Rules 15 and 36(a)). I am instructed that the Secretary of the Victorian FEDFA Divisional Branch has already provided to you details of the income received by the Branch in that half-year.

In light of the above, my clients submit that you should not be satisfied that elections for the number of delegates by and from the Victorian FEDFA Divisional Branch suggested by John Sutton are required to be held. Our clients submit that rather you should be satisfied on the basis of the information provided to you by the Secretary of the Victorian FEDFA Divisional Branch, that

elections for the number of delegates suggested by him are required to be held.

Yours sincerely,



Marcus Clayton  
Partner  
Industrial, Employment & Public Interest Unit  
**SLATER & GORDON**

PR950892

WORKPLACE RELATIONS ACT 1996  
s189 RAO Schedule - arrangement for conduct of an election

**Construction, Forestry, Mining and Energy Union**  
**(E2004/242 and E2004/244)**

BARRY JENKINS  
DEPUTY INDUSTRIAL REGISTRAR

SYDNEY, 24 August 2004

DECISION

On 20 July 2004 the Victorian FEDFA Divisional Branch of the Construction and General Division, and on 22 July 2004 and 16 August 2004 the Construction and General Division of the abovenamed organisation, lodged in the Industrial Registry prescribed information under subsection 189(1) of Schedule 1B of the Workplace Relations Act 1996 in relation to elections for offices and positions.

I am satisfied that an election for the offices in Attachment "A" and the positions in Attachment "B" is required to be held under the rules of the organisation and, under subsection 189(3) of Schedule 1B of the Workplace Relations Act 1996, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



## Attachment "A"

### Queensland Construction Workers Divisional Branch

Divisional Branch President  
Divisional Branch Vice President (3)  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (Plasterers)/Divisional Branch Delegate to  
Divisional Conference  
Divisional Branch Assistant Secretary (Painters)/Divisional Branch Delegate to Divisional  
Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Executive Member (3)  
State Management Committee Member (16)  
Additional Divisional Branch Delegate to Divisional Conference (2)\*

### Queensland Builders Labourers Divisional Branch

Divisional Branch President  
Divisional Branch Vice President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Trustee (2)  
Divisional Branch Treasurer  
Divisional Branch Guardian  
Divisional Branch Executive Member (4)  
Additional Divisional Branch Delegate to Divisional Conference (2)\*

### New South Wales Divisional Branch

Divisional Branch President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Council Members (36) comprising -  
    Sydney Zone (27)  
    Newcastle Zone (3)  
    Wollongong Zone (3)  
    Country Zone (3)  
Divisional Branch Management Committee Member (26)  
Additional Divisional Branch Delegate to Divisional Conference (11)\*

### ACT Divisional Branch

Divisional Branch President  
Divisional Branch Secretary  
Divisional Branch Vice President (2)  
Divisional Branch Secretary/Divisional Branch Treasurer/Divisional Branch Delegate to  
Divisional Conference  
Divisional Branch Assistant Secretary (Plasterer)/Divisional Branch Delegate to Divisional  
Conference  
Divisional Branch Council Member (9)  
Divisional Branch Management Committee Member (11)

### South Australia Divisional Branch

Divisional Branch Senior Vice President/Divisional Branch Delegate to Divisional Conference  
Divisional Branch President  
Divisional Branch Vice President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Treasurer  
Divisional Branch Trustee (2)  
Divisional Branch Management Committee Member (5)  
Divisional Branch Organiser/Divisional Branch Management Committee Member (2)  
Divisional Branch Council Member (16)

### Western Australia Divisional Branch

Divisional Branch President  
Divisional Branch Senior Vice President  
Divisional Branch Vice President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Trustee (3)  
Divisional Branch Treasurer  
Divisional Branch Council Member (20)  
Divisional Branch Management Committee Member (5)  
Additional Divisional Branch Delegate to Divisional Conference (3)\*

### Tasmania Divisional Branch

Divisional Branch President/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Management Committee Member (13)  
Divisional Branch Council Member (5) including -  
    Hobart and Southern Zone (3)  
    Launceston Zone (1)  
    North West Zone (1)

### Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch

Divisional Branch President/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (Victoria)  
Divisional Branch Assistant Secretary (New South Wales)  
Divisional Branch Assistant Secretary (Western Australia)  
Divisional Branch Management Committee Member (New South Wales)  
Divisional Branch Management Committee Member (Victoria)



### Victorian Building Unions Divisional Branch

Divisional Branch President

Divisional Branch Vice President (3)

Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference

Divisional Branch Assistant Secretary

Divisional Branch Management Committee Member (17)

Divisional Branch Council Member (74) comprising -

Metropolitan Melbourne Zone (58)

Geelong Zone (4)

Central Victoria Zone (4)

Northern Victoria Zone (4)

Latrobe Zone (4)

Additional Divisional Branch Delegate to Divisional Conference (11)\*

### Victorian FEDFA Divisional Branch

Divisional Branch President

Divisional Branch Vice President

Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference

Divisional Branch Assistant Secretary

Divisional Branch Management Committee Member (5) comprising -

Metropolitan District (3)

Non-Metropolitan District (1)

Organiser's Representative (1)

Divisional Branch Council Member (9) comprising -

Metropolitan District (5)

Country/Provincial District (3)

Latrobe Valley Sub Branch (1)

Additional Divisional Branch Delegate to Divisional Conference (2)\*

\*(Rule 8 (vii): "[...] Provided further that the number of Divisional Branch delegates to Divisional Conference shall, in relation to any Divisional Branch in which an officer or officers referred to in the immediately preceding subparagraph nominates, be increased by the number of such officers nominating in that Divisional Branch".

Attachment "B"

Queensland Construction Workers Divisional Branch

Divisional Branch Organiser (17)

Queensland Builders Labourers Divisional Branch

Divisional Branch Organiser (10)

New South Wales Divisional Branch

Divisional Branch Organiser (26)

ACT Divisional Branch

Divisional Branch Organiser (1)

Western Australia Divisional Branch

Divisional Branch Organiser (6)

Victorian Building Unions Divisional Branch

Divisional Building Organiser (13)

Victorian FEDFA Divisional Branch

Divisional Branch Organiser (4)

**Superina, Dean**

**From:** Superina, Dean  
**Sent:** Tuesday, 24 August 2004 2:34 PM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** Election - CFMEU - E2004/242 and E2004/244

See attached decision, amended prescribed information and current rulebooks.



E2004 242 & E2004\_242 Amended PI CFMEU Const & CFMEU Federal  
04 244 CFMEU Gd E2004\_244.p=MEU 160804.p.rn R2004-368 (25N R2004-379 (

Dean Superina  
NSW Statutory Services Branch  
Australian Industrial Registry  
Ph: (02) 8374 6506  
Fax: (02) 9380 6990  
Email: Dean.Superina@air.gov.au



**AUSTRALIAN INDUSTRIAL REGISTRY  
NSW REGISTRY**

*Level 8, Terrace Towers, 80 William Street,  
East Sydney, NSW 2011*

Telephone: 8374 6666

Fax: 9380 6990

**FACSIMILE**

TO

Tom Watson

Organisation

CFMEU

Fax Number

(03) 9347 3385

Phone

Number

(03) 9347 9777

FROM

Dean Superina

No of Pages

(including cover)

11

Time

3:35

Date

24/8/04

(Please notify sender if not all pages were received)

Urgent

Routine Transmission

Any information about individuals contained in this fax is CONFIDENTIAL and may NOT be used or disclosed further. If you are NOT the intended recipient, please contact the sender IMMEDIATELY.

MESSAGE:

See attached decision and letters (including correspondence to J Sutton)

THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
008	MEMORY TX		0393473385	11/11	OK

ERRORS

- 1) HANG UP OR LINE FAIL
- 2) BUSY
- 3) NO ANSWER
- 4) NO FACSIMILE CONNECTION



**AUSTRALIAN INDUSTRIAL REGISTRY  
NSW REGISTRY**

*Level 8, Terrace Towers, 80 William Street,  
East Sydney, NSW 2011*

Telephone: 8374 6666

Fax: 9380 6990

**FACSIMILE**

TO

Tom Watson

Organisation

CFMEU

Fax Number

(03) 9347 3385

Phone  
Number

(03) 9347 9777

FROM



**Australian Government**

**Australian Industrial Registry**

Level 8, Terrace Towers  
80 William Street, East Sydney, NSW 2011  
Telephone: (02) 8374 6666  
Fax: (02) 9380 6990

Mr Tom Watson  
Divisional Branch Secretary  
CFMEU  
FEDFA Victorian Divisional Branch  
34 - 40 Barry St  
CARLTON VIC 3053

Dear Mr Watson

**Re: Arrangements for the conduct of an Election  
(E2004/242 and E2004/244)**

I refer to the prescribed information the Victorian FEDFA Divisional Branch lodged in the Registry on 20 July 2004 in relation to offices and positions within the Branch. I allow the Branch until that date to lodge the prescribed information in accordance with s189(2) of the RAO Schedule. On 22 July 2004 the National Secretary of the Construction and General Division of your organisation also lodged prescribed information for offices and positions in the Division including those in the Branch.

On 9 August 2004 I wrote to you asking for your comments on the Division's lodgement in relation to the Branch and seeking other information to enable me to determine the matter.

On the same day I wrote to the National Secretary seeking further information to enable me to determine whether elections were required for certain offices of various Branches (including the FEDFA Branch) and the number of such offices.

On 12 August 2004 you responded to my letter of 9 August 2004.

In addition to prescribed information lodged, I received correspondence from Mr Martin Kingham, State Secretary of the Victorian Divisional Branch on 3 August 2004 on behalf of yourself and other Secretaries of specified Branches of the Construction and General Division. Mr Kingham's letter commented on Branches' entitlements to delegates to the Divisional Conference and attached a copy of his letter to the National Secretary of the Division of 27 July 2004 on that issue.

On 16 August 2004, in addition to further and amending prescribed information, I received correspondence from the National Secretary dated 11 August 2004 in which it was submitted that under the rules of your organisation only the National Secretary was entitled to lodge prescribed information and that I should have no regard for the prescribed information you lodged on 20 July 2004. The National Secretary's letter attached a table setting out financial and other information for each Branch illustrating the method by which entitlement of each to Divisional Conference delegates specified in the prescribed information lodged on 22 July 2004 had been calculated.

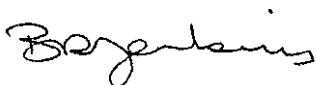
2.

On 18 August 2004 I received correspondence from solicitors representing your Branch and other specified Branches in which the figures applied in the National Secretary's table to calculate the Divisional Conference delegate entitlement of the New South Wales Branch and the FEDFA Victorian Branch were disputed. In particular, it was submitted that whereas the prescribed information lodged by the National Secretary stated the FEDFA Victorian Branch entitlement (including the Branch Secretary) was 3, the correct entitlement (as specified in the prescribed information you lodged on 20 July 2004) including the Branch Secretary was 4 delegates.

I have considered all the prescribed information and other comments and submissions provided. My conclusions in relation to all of these submissions are contained in my letter dated today addressed to Mr John Sutton, Divisional Secretary, and I am enclosing a copy of that letter for your information.

I am making arrangements, under subsection 189(3) of Schedule 1B of the *Workplace Relations Act 1996*, 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. A copy of my decision is enclosed.

Yours sincerely



Barry Jenkins  
Deputy Industrial Registrar

24 August 2004



**AUSTRALIAN INDUSTRIAL REGISTRY  
NSW REGISTRY**

*Level 8, Terrace Towers, 80 William Street,  
East Sydney, NSW 2011*

Telephone: 8374 6666

Fax: 9380 6990

**FACSIMILE**

TO

Tom Watson

Organisation

CFMEU

Fax Number

(03) 9347 3385

Phone

Number

(03) 9347 9777

FROM

Dean Superina

No of Pages

(including cover)

6

Time

4:30

Date

25/8/04

(Please notify sender if not all pages were received)

Urgent

Routine Transmission

---

Any information about individuals contained in this fax is **CONFIDENTIAL** and may **NOT** be used or disclosed further. If you are **NOT** the intended recipient, please contact the sender **IMMEDIATELY**.

---

MESSAGE:

See Amending Decision for E2004/242 &  
E2004/244



THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
016	MEMORY TX		0393473385	06/06	OK

ERRORS

- 1) HANG UP OR LINE FAIL
- 2) BUSY
- 3) NO ANSWER
- 4) NO FACSIMILE CONNECTION



**AUSTRALIAN INDUSTRIAL REGISTRY  
NSW REGISTRY**

*Level 8, Terrace Towers, 80 William Street,  
East Sydney, NSW 2011*

Telephone: 8374 6666  
Fax: 9380 6990

**FACSIMILE**

TO

Tom Watson

Organisation

CFMEU

Fax Number

(03) 9347 3385

Phone Number

(03) 9347 9777

FROM

PR951337

WORKPLACE RELATIONS ACT 1996  
s189 RAO Schedule - arrangement for conduct of an election

**Construction, Forestry, Mining and Energy Union**  
**(E2004/242 and E2004/244)**

BARRY JENKINS  
DEPUTY INDUSTRIAL REGISTRAR

SYDNEY, 25 August 2004

AMENDING DECISION

On 24 August 2004 I made arrangements for the conduct of an election for various offices in the Construction and General Division of the abovenamed organisation including the office of Divisional Branch Delegate to Divisional Conference. It has come to my attention that the decision did not state the correct number of Additional Divisional Branch Delegates to Divisional Conference for the Queensland Construction Workers Divisional Branch, the New South Wales Divisional Branch, the South Australian Divisional Branch and the Victorian Building Unions Divisional Branch. I have amended my decision accordingly.

I am satisfied that an election for the offices in Attachment "A" and the positions in Attachment "B" is required to be held under the rules of the organisation and, under subsection 189(3) of Schedule 1B of the Workplace Relations Act 1996, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



## Attachment "A"

### Queensland Construction Workers Divisional Branch

Divisional Branch President  
Divisional Branch Vice President (3)  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (Plasterers)/Divisional Branch Delegate to  
Divisional Conference  
Divisional Branch Assistant Secretary (Painters)/Divisional Branch Delegate to Divisional  
Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Executive Member (3)  
State Management Committee Member (16)  
Additional Divisional Branch Delegate to Divisional Conference (5)\*

### Queensland Builders Labourers Divisional Branch

Divisional Branch President  
Divisional Branch Vice President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Trustee (2)  
Divisional Branch Treasurer  
Divisional Branch Guardian  
Divisional Branch Executive Member (4)  
Additional Divisional Branch Delegate to Divisional Conference (2)

### New South Wales Divisional Branch

Divisional Branch President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Council Members (36) comprising -  
    Sydney Zone (27)  
    Newcastle Zone (3)  
    Wollongong Zone (3)  
    Country Zone (3)  
Divisional Branch Management Committee Member (26)  
Additional Divisional Branch Delegate to Divisional Conference (13)\*

### ACT Divisional Branch

Divisional Branch President  
Divisional Branch Secretary  
Divisional Branch Vice President (2)  
Divisional Branch Secretary/Divisional Branch Treasurer/Divisional Branch Delegate to  
Divisional Conference  
Divisional Branch Assistant Secretary (Plasterer)/Divisional Branch Delegate to Divisional  
Conference  
Divisional Branch Council Member (9)  
Divisional Branch Management Committee Member (11)

### South Australia Divisional Branch

Divisional Branch Senior Vice President/Divisional Branch Delegate to Divisional Conference  
Divisional Branch President  
Divisional Branch Vice President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Treasurer  
Divisional Branch Trustee (2)  
Divisional Branch Management Committee Member (5)  
Divisional Branch Organiser/Divisional Branch Management Committee Member (2)  
Divisional Branch Council Member (16)  
Additional Divisional Conference Delegate (1)

### Western Australia Divisional Branch

Divisional Branch President  
Divisional Branch Senior Vice President  
Divisional Branch Vice President  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (2)  
Divisional Branch Trustee (3)  
Divisional Branch Treasurer  
Divisional Branch Council Member (20)  
Divisional Branch Management Committee Member (5)  
Additional Divisional Branch Delegate to Divisional Conference (3)

### Tasmania Divisional Branch

Divisional Branch President/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary  
Divisional Branch Management Committee Member (13)  
Divisional Branch Council Member (5) including -  
    Hobart and Southern Zone (3)  
    Launceston Zone (1)  
    North West Zone (1)

### Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch

Divisional Branch President/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference  
Divisional Branch Assistant Secretary (Victoria)  
Divisional Branch Assistant Secretary (New South Wales)  
Divisional Branch Assistant Secretary (Western Australia)  
Divisional Branch Management Committee Member (New South Wales)  
Divisional Branch Management Committee Member (Victoria)

Victorian Building Unions Divisional Branch

Divisional Branch President

Divisional Branch Vice President (3)

Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference

Divisional Branch Assistant Secretary

Divisional Branch Management Committee Member (17)

Divisional Branch Council Member (74) comprising -

Metropolitan Melbourne Zone (58)

Geelong Zone (4)

Central Victoria Zone (4)

Northern Victoria Zone (4)

Latrobe Zone (4)

Additional Divisional Branch Delegate to Divisional Conference (12)\*

Victorian FEDFA Divisional Branch

Divisional Branch President

Divisional Branch Vice President

Divisional Branch Secretary/Divisional Branch Delegate to Divisional Conference

Divisional Branch Assistant Secretary

Divisional Branch Management Committee Member (5) comprising -

Metropolitan District (3)

Non-Metropolitan District (1)

Organiser's Representative (1)

Divisional Branch Council Member (9) comprising -

Metropolitan District (5)

Country/Provincial District (3)

Latrobe Valley Sub Branch (1)

Additional Divisional Branch Delegate to Divisional Conference (2)

\*(This number takes into account the provisions of Rule 8 (vii): "[...] Provided further that the number of Divisional Branch delegates to Divisional Conference shall, in relation to any Divisional Branch in which an officer or officers referred to in the immediately preceding subparagraph nominates, be increased by the number of such officers nominating in that Divisional Branch".

**Attachment "B"**

Queensland Construction Workers Divisional Branch

Divisional Branch Organiser (17)

Queensland Builders Labourers Divisional Branch

Divisional Branch Organiser (10)

New South Wales Divisional Branch

Divisional Branch Organiser (26)

ACT Divisional Branch

Divisional Branch Organiser (1)

Western Australia Divisional Branch

Divisional Branch Organiser (6)

Victorian Building Unions Divisional Branch

Divisional Building Organiser (13)

Victorian FEDFA Divisional Branch

Divisional Branch Organiser (4)

Brendan Carroll  
Returning Officer  
Australian Electoral Commission  
Level 6  
488 Queen Street  
Brisbane QLD 4000

**APPOINTMENT TO CONDUCT AN ELECTION AND/OR BALLOT**

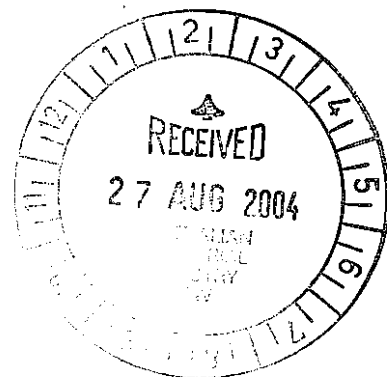
The AEC has made arrangements to conduct the following election and/or ballot.

Scheduled Elections E2004/242 & E2004/244  
Construction & General Division, Queensland Divisional Branches  
Construction, Forestry, Mining and Energy Union

I have appointed you to conduct the above event. Would you please take the necessary steps.

Bernie Morrison  
for the Australian Electoral Officer  
Queensland

27 August 2004



For Information:

Deputy Industrial Registrar  
Australian Industrial Registry  
New South Wales