

# **CPSU, the Community and Public Sector Union, SPSF Group SPSF SA Federal Executive Stage 3**

## **Declaration of Results for Uncontested Offices**

**E2014/241**

Below are the results of the election for the following offices, conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation.

### **Federal Executive**

#### **Federal Vice-President**

##### Candidates

MCMAHON, Jan

#### **Branch Representative on Federal Executive**

##### Candidates

OXLAD, Lindsay Malcolm

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



Barry Barons  
Returning Officer

11 December 2014

GPO Box 344  
ADELAIDE SA 5001

Origin Energy House  
9<sup>th</sup> Floor, 1 King William St  
ADELAIDE 5000

**Reference:** SA 2014/90

**Contact:** Barry Barons  
Phone: (08) 8237 6547  
Facsimile: (08) 8237 6584  
E-mail: [barry.barons@aec.gov.au](mailto:barry.barons@aec.gov.au)

Ms Jan McMahon  
Branch Secretary  
CPSU, the Community and Public  
Sector Union, SPSF Group SA Branch  
GPO Box 2170  
ADELAIDE SA 5001

Dear Ms McMahon

**Post Election Report For:      Community and Public Sector Union, SPSF Group**  
**South Australian Branch**  
**Election E2014/241**

I refer to the above election for your organisation.

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

Section 198 of the Act requires that if an organisation or branch is given a Post-Election Report under Section 197 that identifies a rule that was difficult to interpret or apply, the organisation or branch must, within 30 days, give a written response to the AEC on that aspect of the report. The response must specify whether the organisation or branch intends to take any action in relation to the rule, and if so, what action it intends to take. If the attached report identifies a rule that was difficult to interpret or apply, you should forward your response to the AEC by email to 'industrial.elections@aec.gov.au' within thirty days of the date of the report.

Section 198 and the regulations also require an organisation to make the Post-Election Report and the organisation's response to the report (if applicable) available to members.

Further, Regulation 141(4) of the *Fair Work (Registered Organisations) Regulations 2009* requires an organisation or branch to publish a notice on its website advising members that a copy of the Post-Election Report is available upon request. If a website is not available, publishing a notice in a journal or newsletter would be considered appropriate.

Please contact me if you wish to clarify any aspect of this report.

Barry Barons  
Returning Officer

11 December 2014

**Fair Work (Registered Organisations) Act 2009**

**POST ELECTION REPORT**

**Community and Public Sector Union**

**SPSF Group**

**ELECTION/S COVERED IN THIS REPORT**

Election Decision No: E2014/241

**RULES**

Rules used for the election: SPSF:[090V-SPSF: Incorporates alterations of 17/10/2014 (R2014/161)]

SA Branch: [090V-SAS : Incorporates alterations of 23/12/2005]

Rules difficult to **apply**/interpret:

This Stage 3 election, for the election of Federal Vice-President & Branch Representative on the Federal Executive should have been conducted with the scheduled election during March to June'14 (E2014/51), but the PI was not submitted by SPSF. FWC have addressed this issue. To escalate this election & conduct it urgently during 2014, the RO, in consultation with SPSF, reduced the nomination & ballot periods (SPSF Fed Rule 55B A & B), in accordance with Section 193 (1) (b) (i) of the *Fair Work (Reg Orgs) Act 2009*. Otherwise the election would not have been completed until late Jan'15 at the earliest. The electorate for the election consisted of only 5 members, who were all available via email, for the nominations process, and no-one was dis-advantaged by this decision.

Model Rule reference (if any): N/A

**ROLL OF VOTERS**

Total number of voters on the Roll: No ballot

Other matters pertaining to the roll of voters: Nil

**IRREGULARITIES**

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

Other irregularities identified, and action taken: Nil

**ATTACHMENTS**

Declaration of Uncontested Offices - Stage 3 only for this election.

A handwritten signature in black ink, appearing to read 'Barons', with a large, sweeping flourish above the name.

Barry Barons  
Returning Officer

11 December 2014



## DECISION

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

### **CPSU, the Community and Public Sector Union** (E2014/241)

MR ENRIGHT

MELBOURNE, 28 NOVEMBER 2014

*Arrangement for conduct of election.*

[1] On 31 October 2014 the South Australian Branch of the SPSF Group of the CPSU, the Community and Public Sector Union lodged with the Fair Work Commission the prescribed information in relation to an election for the following offices:

Federal Vice-President  
Branch Representative on Federal Executive

[2] Subsection 182(1) of the *Fair Work (Registered Organisations) Act 2009* requires the Australian Electoral Commission to conduct an election for each office in an organisation or branch of an organisation unless an exemption has been granted under section 182(2). No such exemption has been granted in relation to the abovementioned offices.

[3] Elections for the above offices are significantly overdue. Arrangements for the conduct of an election for the above offices have not been made for a significant period of time. The term of office for the requested offices is 2 years. As a result the prescribed information should have been lodged and was not lodged within the prescribed periods on a number of occasions. By failing to lodge prescribed information in relation to an election an organisation or a branch contravenes a civil penalty provision.

[4] The Branch was informed that the prescribed information was not lodged before the day prescribed by Regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*. That day is 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 the election. The Branch advised that the reason for elections not being conducted at the scheduled time by the Australian Electoral Commission is that elections for the offices in question have been run by the Branch rather than by the Australian Electoral Commission as required by subsection 182(1) of the *Fair Work (Registered Organisations) Act 2009*. The Branch was unaware it was doing anything wrong by conducting the elections for the offices itself and has assured me such occurrence will not happen again. While I accept that the Branch was not aware that elections for the offices of Federal Vice-President and Branch Representative on Federal Executive are required to be conducted by the Australian Electoral Commission, the Branch nonetheless was obligated under section 189(1) of the *Fair Work (Registered Organisations) Act 2009* to lodge the prescribed information in relation to elections for its offices to be

conducted by the Australian Electoral Commission. The fact that elections have not been held for a significant period of time does not obviate the need for an election. I do not want to frustrate the democratic function of the Organisation and therefore I allow lodgement on 31 October 2014 in the present circumstance.

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

[6] Although arrangements are being made for the conduct of an election for the above offices this does not excuse the non-lodgement of the prescribed information for those offices within the prescribed periods nor does it exclude the possibility of action being undertaken under section 305 of the *Fair Work (Registered Organisations) Act 2009*.



DELEGATE OF THE GENERAL MANAGER

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# Public Service Association of SA Inc

Community and Public Sector Union • SA Branch • SPSF Group

28 November 2014

Our Ref: EO9 005

Ms Bernadette O'Neill  
General Manager  
Fair Work Commission  
GPO Box 1994  
Melbourne VIC 3001

Attention: Larry Powell

By email: [larry.powell@fwc.gov.au](mailto:larry.powell@fwc.gov.au)

Dear Madam

**Re: Election of Federal Vice President and Branch Representative  
on the Federal Executive – Community & Public Sector Union,  
(State Public Services Federation) – SA Branch**

I refer to the discussions which Peter Christopher of this office had with your Larry Powell a.m. on 27/11/2014. I note that your Mr Powell indicated that we needed to apply for an extension of time for the request made in our 31/10/2014 letter to you (for the election of Federal Vice President and Federal Branch Representative from the SA Branch to the Federal Executive).

Prior to your Mr Powell pointing out that the SA Branch was in error in not previously having made the request to you (for the Australian Electoral Commission to conduct elections for these positions), the SA Branch was acting under the mistaken belief that it was acting in accordance with the Rules by conducting its own election process for these positions. Hence the request which we now make for an extension of time for the request made in our 31/10/2014 letter to you.

I point out that the mistake made by the SA Branch was entirely innocent. There was no conscious attempt to avoid the correct process prescribed by the Rules. Further, no member has gained any advantage nor suffered any disadvantage from the process (incorrectly) undertaken.

As requested, I provide an undertaking on behalf of the Branch that this mistake will not recur and that requests will in future be made to you for the Australian Electoral Commission to conduct ballots for these positions, in accordance with the requirement contained in the Rules and relevant legislation.

I would be grateful if you would now process our request as soon as possible. If you have any further queries in relation to it or if you require any further information please do not hesitate to contact Chief Industrial Officer Peter Christopher on [pgc@cpsu.asn.au](mailto:pgc@cpsu.asn.au) or per telephone 08 8205 3224 or mobile 0418 846 638.

Yours sincerely,

**JAN McMAHON  
BRANCH SECRETARY**



# Public Service Association of SA Inc

Community and Public Sector Union • SA Branch • SPSF Group

31 October 2014

Our File ref. no. : E09 005

Ms Bernadette O'Neill  
General Manager  
Fair Work Commission  
GPO Box 1994  
Melbourne VICTORIA 3001

Via Email: [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)

Dear Ms O'Neill

## **Election of Federal Vice President and Branch Representative on the Federal Executive - Community and Public Sector Union (State Public Services Federation) - SA Branch**

I, Jan McMahon, being the Branch Secretary of the Community and Public Sector Union (State Public Services Federation) - SA Branch, make the following statement:

I am the Branch Secretary of the Community and Public Sector Union (State Public Services Federation) - SA Branch;

I am authorised to lodge the following prescribed information concerning forthcoming elections in the SA Branch of the Community and Public Sector Union (State Public Services Federation); and

I confirm that the following information is being lodged under subsection 189 (1) of the Fair Work (Registered Organisations) Act 2009.

I would be pleased if you could arrange for said elections to be conducted at the earliest opportunity in accordance with the information provided (*see Attachment*).

Should you have any queries please contact Chief Industrial Officer Peter Christopher on [pgc@cpsu.asn.au](mailto:pgc@cpsu.asn.au) , Phone (08) 8205 3224 or Mobile 0418 846 638.

Yours sincerely,

.....  
(signed)

**JAN McMAHON**  
Att.



**Offices/Positions**

Federal Vice-President (1 position)

Branch Representative on Federal Executive (1 position)

Note that it is a requirement that candidates for the positions be delegates to Federal Council. Rule 55B refers.

**Reasons for election:**

- Election for the offices detailed above is required as the terms of office expire in the normal course of events under the rules of the organisation. Election can only occur after Stage 2 of Branch elections have concluded. This has now occurred.

**Elected by:**

- The electorate for the collegiate electoral system for both positions, is 'delegates to Federal Council' (ie. 5 persons)

**Nominations open:**

- As soon as practicable

**Nominations close:**

- Rule 55B provides that the Returning Officer shall set the dates for nomination and ballot.