

CSR & CEMEX Staff Association Staff Association Executive Council 2009

DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following offices conducted in accordance with the provisions of the Workplace Relations Act 1996 and the rules of the organisation.

E2009/142

CSR & CEMEX Staff Association

President

Candidate

HOSKINS, Peter

Vice President

Candidate

DWYER, Justine Anne

Secretary

Candidate

HANLON, Jonathan Douglas

Treasurer

Candidate

HALLISSY, Peter

Executive Council Member (5)

Candidates

CARTER, Philip

HUXLEY, Mike

LANE, David Charles

SINARDI, Tony Anthony

No further nomination was accepted

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

David Brown
Returning Officer

CSR & CEMEX Staff Association
Re-call Scheduled CSR CEMEX staff Association

DECLARATION OF RESULTS FOR UNCONTESTED OFFICE

Results of the election for the following office conducted in accordance with the provisions of the Workplace Relations Act 1996 and the rules of the organisation.

E2009/142

CSR & CEMEX Staff Association

Executive Council Member

No nomination was received

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

David Brown
Returning Officer

Workplace Relations Act 1996
s.189 RAO Schedule - arrangement for conduct of an election

CSR & CEMEX Staff Association
(E2009/142)

T. NASSIOS
DEPUTY INDUSTRIAL REGISTRAR

MELBOURNE
16 APRIL 2009

Arrangement for conduct of election.

DECISION

[1] On 7 and 14 April 2009 the CSR & CEMEX Staff Association lodged in the Industrial Registry the prescribed information in relation to an election for the following offices:

President
Vice President
Secretary
Treasurer
Executive Councillors (5)

[2] During the consideration of this matter, I noted an ambiguity in the rules of the organisation in relation to the terms of office. In particular, sub-rule 22(c) indicates that the terms of office for the members of the Executive Council shall be for two years after 2002 but sub-rules 22(a) and 23(a)(i) suggest that terms are for only one year.

[3] I am satisfied that these terms of office are for two years because the provisions of sub-rules 22(c) were certified subsequently to and intended to supersede the provisions in sub-rules 22(a) and 23(a)(i) regarding the length of these terms of office.

[4] Nevertheless, the organisation should take action to remedy this ambiguity in its rules and I make the following suggestions in this regard:

- sub-rule 22(a) be deleted in its entirety,
- in sub-rule 22(c), delete the words “elected at elections held after the election in 2002”, and
- in sub-rule 23(a)(i) after the words “each year” insert the words “an election is due”.

[5] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of Schedule 1 of the *Workplace Relations Act 1996*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



LO-BOOTH, Cynthia

From: Bill McNally [Bill@mcnally.com.au]
Sent: Tuesday, 14 April 2009 3:27 PM
To: SCHULTZ, Andrew
Cc: Nathan Keats; Boner, Denis; LO-BOOTH, Cynthia
Subject: FW: Election - E2009/142 - conflict of sub-rule 22(a) and 22(c)
Attachments: ltr rule conflict 9Apr09_2_.pdf

See below.

Bill McNally
Tel 02 9233 4744
Fax 02 9223 7859
email bill@mcnally.com.au
Web: www.mcnally.com.au

From: Bill McNally
Sent: Tuesday, 14 April 2009 1:10 PM
To: 'cynthia.lobooth@airc.gov.au'
Cc: Nathan Keats; 'Boner, Denis'
Subject: FW: Election - E2009/142 - conflict of sub-rule 22(a) and 22(c)

W.G.McNALLY JONES STAFF.**LAWYERS****LAW SOCIETY BUILDING**

LEVEL 10 170-172 PHILLIP STREET, SYDNEY, AUSTRALIA, N.S.W. 2000
TELEPHONE 61 2 9233 4744 FACSIMILE 61 2 9223 7859 EMAIL: bill@mcnally.com.au

Dear Cynthia

Re: Section 189 of Schedule 1 of the WRA 1996-E2009/142.

We are the lawyers for CSR & CEMEX Staff Association who has requested our assistance in relation to your letter of 9 April 2009. We have acted in all alteration of rules matters in recent years including the alteration which added rule 22(c) to the rules of the association in February 2003. At that time rule 22(a) operated in respect to officers then holding positions and as a consequence they were required to retire in September 2003 at the end of their yearly term.

Rule 22(a) was the original rule and operated in respect to the 2002 election and all previous elections. Rule 22(c) operates in respect to all elections “**after** the election in 2002”.. As a consequence the officers elected in the 2002 election were required to “retire annually” and accordingly retired in 2003. Rule 22(c) applied to the 2003 election and the officers elected at that election were required to retire after two years ie 2005. The officers elected in 2007 are required by rule 22(c) to retire in 2009 being two years after their election.

Rule 22(a) may have become redundant in 2003 but it does not conflict with rule 22(c) which clearly applies only to the election in 2003 and all subsequent two yearly elections.

Would you please reconsider the view which you have expressed and allow the procedure contemplated in section 189 to commence?

We have advised the Association that as rule 22(a) is now redundant it should in due course be

16/04/2009

repealed.

Bill McNally
WG McNally Jones Staff Lawyers
Tel 02 9233 4744
Fax 02 9223 7859
email bill@mcnally.com.au
Web: www.mcnally.com.au

From: Boner, Denis [mailto:DBoner@csr.com.au]
Sent: Tuesday, 14 April 2009 8:46 AM
To: Bill McNally; Nathan Keats
Cc: All CSR & RSSA Council; All CSR & RSSA Staff
Subject: FW: Election - E2009/142 - conflict of sub-rule 22(a) and 22(c)

Hi Bill'

We need to DRAFT a motion to resolve the conflicting Rules set out in the correspondence sent by the Statutory Branch of the AIRC, we will do this electronically but we need to act on it ASAP as the date of our election depends on the Rule change. If you have any comment please contact me on 99641757.

Regards,

Denis Boner

From: LO-BOOTH, Cynthia [mailto:Cynthia.Lobooth@airc.gov.au]
Sent: Thursday, 9 April 2009 2:58 PM
To: Boner, Denis
Subject: Election - E2009/142 - conflict of sub-rule 22(a) and 22(c)

Dear Denis,

Please see letter attached regarding the matter I spoke to you about earlier today.

<<ltr rule conflict 9Apr09_2_.pdf>>

Regards,

CYNTHIA LO-BOOTH

Statutory Services Branch

Australian Industrial Relations Commission

11 Exhibition St, Melbourne Victoria 3000

GPO Box 1994, Melbourne Victoria 3001

Telephone: (03) 8661 7989

International: (613) 8661 7989

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Email: cynthia.lobooth@airc.gov.au

16/04/2009

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Australian Government
Australian Industrial Registry

9 April 2009

Mr Jon Hanlon
Secretary
CSR & CEMEX Staff Association
Locked Bag 6
CHATSWOOD NSW 2057

Attn: Denis Boner
By email: dboner@csr.com.au

Dear Mr Hanlon

**Re: Section 189 of Schedule 1 of the Workplace Relations Act 1996
Arrangement for Conduct of an Election – E2009/142**

I acknowledge receipt of the prescribed information lodged pursuant to s189, arrangement for conduct of an election by the Australian Electoral Commission. The document was lodged with the Industrial Registry on 7 April 2009.

In processing the lodged prescribed information it became apparent that there is a direct conflict between sub-rules 22(a) and 22(c) of the CSR & CEMEX Staff Association rules. Sub-rule 22(c) provides that *“The President, Vice President, Secretary, Treasurer and five Executive Councillors elected at elections held after the election in 2002 shall retire every two years and be eligible for re-election...”* while sub-rule 22(a) provides that the same officers *“retire annually”*.

From our records, it is noted that the Executive Council has notified the Industrial Registrar to arrange for conduct of an election every second year – E2001/46, E2003/47, E2005/50 and E2007/145. It is also noted that the elections have fallen on every odd numbered year which is also at odds with sub-rule 22(c). It would therefore appear that the intention of the organisation is to hold an election for the offices of the Executive Council every two years.

I note that the prescribed information states that current members of Executive Council hold office until the Annual General Meeting to be held on 24 September 2009. Given that this is some 4½ months away, I believe that the most appropriate course of action would be for the organisation to alter its rules in accordance with rule 52 (Alteration to Rules) as soon as possible to resolve this conflict.

If you are intending to alter the rules by deleting sub-rule 22(a) then I also suggest that you consider replacing ‘2002’ as it appears in sub-rule 22(c) with ‘2009’ to reflect the fact that elections have been held in odd numbered years.

We request that you indicate to us in writing by 22 April 2009 as to how your organisation intends to resolve this conflict in rule 22. If the organisation’s intention is to make alterations to rule 22 then the Registry will, with your consent, place the election request on hold. The election request will recommence once the proposed rule alteration is lodged and, if appropriate, certified by the Registrar.

Should you have any questions regarding this matter please contact me on Wednesdays to Fridays on (03) 8661 7989 or by email at cynthia.lobooth@airc.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Cynthia Lo-Booth', with a stylized flourish at the end.

Cynthia Lo-Booth
Statutory Services Branch

CSR & CEMEX STAFF ASSOCIATION

LEVEL 2, 9 HELP STREET CHATSWOOD NSW 2067
TELEPHONE: (02) 9964 1747

LOCKED BAG 6 CHATSWOOD NSW 2057
FACSIMILE: (02) 9964 1742

1 April 2009

Industrial Registrar
Statutory Services Branch
Australian Industrial Registry
GPO Box 1994S
MELBOURNE VIC 3001



Dear Sir,

**RE: ARRANGEMENT FOR CONDUCT OF AN ELECTION
IN ACCORDANCE WITH SECTION 189 OF SCHEDULE 1
OF THE WORKPLACE RELATIONS ACT 1996**

In accordance with a resolution passed by the Executive Council of the CSR & CEMEX Staff Association on 27th March 2009, this Association formally requests the Registrar to arrange for the conduct of an election with the Australian Electoral Commission for:

CSR & CEMEX Staff Association Executive Council 2009-2011

There are nine (9) positions on the Executive Council. In accordance with the Rules of the CSR & CEMEX Staff Association, no more than five CSR employees or more than five CEMEX employees are eligible for election as an Executive Councillor in the Election. The positions are:

President
Vice President
Secretary
Treasurer
Five Executive Councillor Members (5)

The present office holders will remain in their positions until the successors are declared elected at the Annual General Meeting to be held on 24 September 2009. The newly elected office holders, declared elected at that AGM, will remain in their positions for two years when a further election will be held in 2011.

This election is in the form of a direct voting system and on a "first past the post" basis.

Should you have any questions regarding this matter, please contact Denis Boner on (02)9964 1747.

Yours faithfully

A handwritten signature in black ink that reads "Jon Hanlon". The signature is written in a cursive, flowing style.

Jon Hanlon
Secretary