



## DECISION

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

### **Motor Trades Association of Queensland Industrial Organisation of Employers** (E2020/152)

MR ENRIGHT

MELBOURNE, 28 JULY 2020

*Arrangement for conduct of election.*

[1] On 3 July 2020 the Motor Trades Association of Queensland Industrial Organisation of Employers lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices:

MTA Queensland Chairman	(1)
MTA Queensland Vice-Chairman	(1)
District Representative Northern District	(1)
Queensland Farm and Industrial Machinery Dealers Division ( <b>QFIMDD</b> )	
Division Committee Member QFIMDD	(5)
Division Chairman QFIMDD	(1)
Division Vice-Chairman QFIMDD	(1)
Division Secretary QFIMDD	(1)
Queensland Motor Cycle Industry Division ( <b>QMID</b> )	
Division Committee Member QMID	(5)
Division Chairman QMID	(1)
Division Vice-Chairman QMID	(1)
Division Secretary QMID	(1)
Tyre and Undercar Division Qld ( <b>TUDQ</b> )	
Division Committee Member TUDQ	(5)
Division Chairman TUDQ	(1)
Division Vice-Chairman TUDQ	(1)
Division Secretary TUDQ	(1)
Australian Automobile Dealers Association Queensland ( <b>AADA(QLD)</b> )	
Division Committee Member AADA(QLD)	(5)
Division Chairman AADA(QLD)	(1)
Division Vice-Chairman AADA(QLD)	(1)

Division Secretary AADA(QLD)	(1)
Automotive Engineers Division ( <b>AED</b> ):	
Division Committee Member AED	(10)
Division Chairman AED	(1)
Division Vice-Chairman AED	(1)
Division Secretary AED	(1)
National Auto Collision Alliance ( <b>NACA</b> )	
Division Committee Member NACA	(6)
Division Chairman NACA	(1)
Division Vice-Chairman NACA	(1)
Division Secretary NACA	(1)

[2] The organisation had previously lodged prescribed information on 28 February 2020 in anticipation of its scheduled 2020 elections. That lodgement of prescribed information was before the prescribed day required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*, namely at least two months before nominations were due to open. At that time, the organisation advised the Commission of its proposed rule changes, lodged with the Fair Work Commission (**FWC**) on 3 December 2019, and indicated that if certified they would have a significant impact on the offices to be elected at the upcoming election. Following consultation with the Commission, the organisation withdrew that prescribed information pending the outcome of the proposed rule changes it had lodged with the FWC.

[3] On 1 July 2020, the FWC certified the organisation's rule changes.<sup>1</sup> Prescribed information, requesting an election under the new rules, was lodged by the organisation on 3 July 2020. This is the first election to be conducted under the new rules taking operation from 1 July 2020, which provide two year terms for the Chairman, Vice-Chairman and Secretary, and staggers the introduction of the new terms so the Chairman and Vice-Chairman are elected one year and the Secretary is elected the next, all of which had occurred on an annual basis prior to the rule change being certified. The alterations also provide that the Chairman, Vice-Chairman and Secretary can hold office for a maximum of three terms.

[4] I am satisfied that, in the circumstances outlined above, the reason for the late lodgement of prescribed information is sufficient to justify agreeing to allow a later date for the lodgement. The normal and reasonable expectation is that registered organisations will take steps to ensure they comply with the time-frame requirements set out not only in the *Fair Work (Registered Organisations) Act 2009* (the Act) but also in instruments or references pertaining to their own governance (such as their own rules).

[5] In the circumstances of the significant rule alterations effected by the organisation it was reasonable for the organisation, in consultation with the Commission, to defer lodging prescribed information pending the outcome of its rule alterations application. Given that the organisation consulted with the Commission at all stages of the process, and the consequential effect of the rule changes, I consider that the circumstances are such that it is appropriate on this occasion to allow, under section 189(2) of the Act, a later day for lodgement.

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<sup>1</sup> *Motor Trades Association of Queensland Industrial Organisation of Employers* [2020] FWCD 3360

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



DELEGATE OF THE COMMISSIONER

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## Notice and Statement of Prescribed Information for an Election

I, James William George Robertson, being the Secretary of Motor Trades Association of Queensland, Industrial Organisation of Employers (MTA Queensland), make the following statement:

I am the Secretary of the Motor Trades Association of Queensland, Industrial Organisation of Employers (MTA Queensland),

I am authorised to lodge the following prescribed information concerning forthcoming elections in the Queensland Branch of the Motor Trades Association of Queensland, Industrial Organisation of Employers, and

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

In relation to scheduled elections, [if lodged less than 2 months before nominations open] This statement IS NOT lodged at least 2 months before nominations open for the election(s) in Annexure A. The reason it is lodged after the prescribed time is:

- a. Covid-19 shutdowns delaying Industrial Elections and Rule Change approvals. Prescribed information was lodged within the two (2) month timeframe and subsequently withdrawn on discussion with Registered Organisations Commission.

Signed:



Dated: 03.07.2020

### Offices/Positions

<b>A</b>	Queensland Farm and Industrial Dealers Division Committee <b>QFIMDD</b> (5) Queensland Farm and Industrial Dealers Division Chairman (1) Queensland Farm and Industrial Machinery Vice Chairman (1) Queensland Farm and Industrial Machinery Secretary (1)
	Queensland Motor Cycle Industry Division <b>QMID</b> (5) Queensland Motor Cycle Industry Division Chairman (1) Queensland Motor Cycle Industry Division Vice Chairman (1) Queensland Motor Cycle Industry Division Secretary (1)
	Tyre and Undercar Division Qld Committee <b>TUDQ</b> (5) Tyre and Undercar Division Qld Chairman (1) Tyre and Undercar Division Qld Vice Chairman (1) Tyre and Undercar Division Qld Secretary (1)
	Australian Automotive Dealers Association Queensland Committee <b>AADA(Q)</b> (5) Australian Automotive Dealers Association Queensland Chairman (1) Australian Automotive Dealers Association Queensland Vice Chairman (1) Australian Automotive Dealers Association Queensland Secretary (1)

	Automotive Engineers Division Committee <b>AED</b> (10) Automotive Engineers Division Chairman (1) Automotive Engineers Division Vice Chairman (1) Automotive Engineers Division Secretary (1)
	National Auto Collision Alliance Committee <b>NACA</b> (6) National Auto Collision Alliance Chairman (1) National Auto Collision Alliance Vice Chairman (1) National Auto Collision Alliance Secretary (1)

B	District Representative Northern District <b>(1)</b>
C	MTA Queensland Chairman <b>(1)</b>
	MTA Queensland Vice Chairman <b>(1)</b>

**Reasons for election:**

- Election for offices and positions marked A, B and C respectively is required as the terms of office are due to expire in the normal course of events under the rules of the organisation.

**Elected by Direct Vote:**

- Division Committee Member;
- District Representatives; and

**Elected by Collegiate Vote:**

- Division Chairman, Vice Chairman and Secretary
- MTA Queensland Board Chairman, Vice Chairman and Secretary

**Elected by:**

- The electorate for the direct voting system for A:
  - Committee is the whole of each Division
  - Chairman, Vice Chairman and Secretary of each Division the collegiate electoral system is by and from the Elected Committee Representatives
- The electorate for the direct voting system for B is by and from the Members in each District
- The electorate for collegiate electoral system for C is by and from the Elected Industry Chairman and District Representatives

**Nominations open:**

- For offices to be elected by direct voting system for A Committee Members and B District Representatives – 1 May (Rule 13.1(a))
- For offices to be elected by collegiate voting system for A Chairman, Vice Chairman and Secretary – 26 July (Rule 18(e) (i) (A))
  - The Manager will conduct an election by secret ballot at the first meeting of the relevant college following the close of nominations (AGM) (Rule 18(f) (i))
- For offices to be elected by collegiate election for C – 01 October (Rule 18(e) (ii) (A))

**Nominations close:**

- For offices to be elected by direct voting system for A Committee Members and B District Representatives - 12 noon, 01 June (Rule 13.1(b))
  - Candidate may withdraw nomination 10 June
  - Defective nominations to be rectified 10 June
  - Opening date for secret ballot (if required) 25 June
  - Closing date for secret ballot (if required) 16 July
- For offices to be elected by collegiate voting system for A Chairman, Vice Chairman and Secretary – 12 noon, 9 August (Rule 18(e) (i) (B))
- For offices to be elected by collegiate election for C - 15 October (Rule 18(e) (ii) (b))

**Cut off date for roll:**

- In all cases – Both the eligible member and the Member they are nominating for office must have been a financial Member for a period of thirty (30) days prior to the opening date for nominations (Rule 13.5(b))

Note:**Rule 12.3 Dates**

*Should any of the dates specified in these Rules for the appointment of Elected Office Holders fall on a non-business day, the revised date will be taken to be the first business day following the original date. If a date is revised all other dates are to remain as specified in these Rules for the appointment of Elected Office Holders.*

**Rule changes incorporated as approved by Fair Work 01/07/2020**