

Musicians' Union of Australia Adelaide Branch Election

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.

E2012/395

Adelaide Branch

President

Candidate

CLARKE, Douglas

Vice-President (2)

Candidates

FIDDIAN, Ian Tristan Samuel
LYLE, John Gibson

Committee Member (8)

Candidates

BROW, Donald
CALLISTO, John
LANG, Frank
LEVENDIS, Evniki
PEARSE, David John
TURNER, Alan Gordon
No further nominations were accepted

Trustee (3)

Candidates

GUY, Robert William
PEARSE, David John
SPILSBURY, Brett G

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



Karen Stacey
Returning Officer



Fair Work (Registered Organisations) Act 2009 - s197

POST ELECTION REPORT
Musicians' Union of Australia

ADELAIDE BRANCH E2012/395

ELECTION/S COVERED IN THIS REPORT

Election Decision No/s: E2012/395

RULES

Rules used for the election:	<i>013n: Incorporates alterations of 28/07/2009 in matter R2009/10008</i>
Rules difficult to apply/interpret:	<i>None</i>
Model Rule reference (if any):	<i>N/A</i>

ROLL OF VOTERS

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

IRREGULARITIES

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

Other irregularities identified, and action taken: *Nil.*

ATTACHMENTS

Declaration of Results for Uncontested Offices.



Karen Stacey
Returning Officer
14 January 2013.



FAIR WORK
AUSTRALIA

5 November 2012

Mr Sam Moody
Secretary, Adelaide Branch
Musicians' Union of Australia
U4/23 King William Road
UNLEY SA 5061



Dear Mr Moody

Re: Election - Musicians' Union of Australia, Adelaide Branch (E2012/395)

A copy of the decision in relation to the above matter is enclosed.

Fair Work Australia is making arrangements, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, 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.

Stephen Kellett
Fair Work Australia

KELLETT, Stephen

From: KELLETT, Stephen
Sent: Monday, 5 November 2012 3:51 PM
To: 'musosa@bigpond.net.au'
Subject: FW: Election E2012 / 395 Musicians Union of Australia, Adelaide Branch
Attachments: E2012 395 Adelaide Decision.pdf

Dear Mr Moody,

Please see attached the Delegate's Decision in relation to the scheduled Branch elections.

Yours sincerely

STEPHEN KELLETT

Senior Adviser, Regulatory Compliance Branch

Fair Work Australia

Tel: (02) 6723 7237

Mob: 0429 462 979

Fax: +61 2 9380 6990

stephen.kellett@fwa.gov.au

80 William Street, East Sydney NSW 2011

www.fwa.gov.au

KELLETT, Stephen

From: KELLETT, Stephen
Sent: Monday, 5 November 2012 3:41 PM
To: 'industrial.elections@aec.gov.au'
Subject: Election E2012 / 395 Musicians Union of Australia, Adelaide Branch
Attachments: E2012 395 Adelaide Decision.pdf; E2012 395 memo to AEC re Decision.doc; Current Rules 013n.doc

Dear Electoral Officer,

Please see attached form and Decision. I attach the current rules.

Yours sincerely

STEPHEN KELLETT
Senior Adviser, Regulatory Compliance Branch

Fair Work Australia

Tel: (02) 6723 7237
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Electoral Commissioner Through
Australian Electoral Officer (industrial.elections@aec.gov.au)

Under subsection 189 of the Fair Work (Registered Organisations) Act 2009, please arrange for the conduct of the following election by the Australian Electoral Commission:

E No 2012/395

RE: MUSICIANS' UNION OF AUSTRALIA, ADELAIDE BRANCH

Positions:

See Decision

Contact: Musicians' Union of Australia, Adelaide Branch
Sam Moody, Secretary

Phone: (08) 8272 5013

A copy of the decision is enclosed.

I further request that you arrange for this office to be notified that arrangements for the conduct of this election have been made, by email transmission at industrial.elections@air.gov.au

Stephen Kellett
for Delegate of the General Manager

5 November 2012

[2012] FWAD 9274



DECISION

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

Musicians' Union of Australia
(E2012/395)

LINTON DUFFIN

MELBOURNE, 5 NOVEMBER 2012

Arrangement for conduct of election.

[1] On 25 October 2012 the Adelaide Branch of the Musicians' Union of Australia lodged with Fair Work Australia the prescribed information in relation to an election for the following offices:

Branch President	(1)
Branch Vice-Presidents	(2)
Branch Committee Members	(8)
Branch Trustees	(3)

[2] On 26 October 2012, the Secretary of the Adelaide Branch lodged a request for an extension of time and for the General Manager to allow a later day than the prescribed day for lodgment of the prescribed information. Section 189 (2) of the *Fair Work (Registered Organisations) Act 2009* mandates that the prescribed information must be lodged before the prescribed day or such later day as the General Manager allows.

[3] The prescribed day is established pursuant to Regulation 138(3) which provides that the prescribed days is to be 2 months before the first day when a person may, under the rules of the organization or branch, become a candidate in an election. The date on which the nominations are intended to open is 3 December 2012, which means that the prescribed information was lodged three weeks later than the prescribed day. In his letter, the Secretary submitted reasons for the delay in lodging the prescribed information.

[4] Section 5(3) of the *Fair Work (Registered Organisations) Act 2009* indicates that Parliament's intention when enacting this legislation was, amongst other things, establishing standards to:

- (a) ensure that employer and employee organizations registered under this Act are representative of and accountable to their members, and are able to operate effectively; and
- (b) encourage members to participate in the affairs of the organizations to which they belong; and...
- (d) provide for the democratic functioning and control of organizations.

[5] In this context, it must be recalled that elections are one of the key mechanisms for ensuring that organizations registered under the Act are representative and accountable to members. Accordingly, extensions of time should not be routinely sought. On the contrary, every effort must be made to lodge the prescribed information before the prescribed day.

[6] After considering all the circumstances, I am satisfied that the Secretary of the Adelaide Branch is aware of the legislative requirements and the rules of the organization and will take steps to ensure compliance in the future. I allow a later day for lodgment of the prescribed information up to the date of actual lodgment, namely 25 October 2012, and grant the extension requested.

[7] 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 GENERAL MANAGER
FAIR WORK AUSTRALIA

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KELLETT, Stephen

From: KELLETT, Stephen
Sent: Monday, 29 October 2012 6:48 PM
To: KELLETT, Stephen
Subject: FW: MUA Adelaide Committee Elections
Attachments: Prescribed Information Requesting Election 2012.pdf; ATT00001.txt

-----Original Message-----

From: KELLETT, Stephen
Sent: Friday, 26 October 2012 11:26 AM
To: 'industrial.elections@aec.gov.au'
Subject: FW: MUA Adelaide Committee Elections

Please see attached Prescribed Information for new matter E2012/395 Yours sincerely

Stephen Kellett

FAIR WORK AUSTRALIA



Musicians Union of Australia
Adelaide Branch
U4/ 23 King William Rd
UNLEY
ph 8272 5013
fax 8272 7841
mob 0412 933 865
email musosa@bigpond.net.au



Bernadette O'Neil
The General Manager
c/o Stephen Kellet
Fair Work Australia
Terrace Towers
80 William Street
East Sydney NSW 2011

26 October, 2012

Dear Ms O'Neil,

Lodgement of Statement and Notice of Prescribed Information for an Election

I write to request an extension of time to the attached lodgement of the Adelaide Branch of the Musicians' Union of Australia's Statement and Notice of Prescribed Information for an Election.

As a result of the declaration of the last election of the Committee of Management of the Adelaide Branch being delayed until February 2011, I was in the process of attempting to secure the unanimous consent of the Branch office holders to agree to shorten their elected terms of two years by two months so that elections could be completed by the end of 2012 and thus resynchronise our elections with the Rules of the organisation which indicate that elections should be held in even numbered years. Unfortunately, whilst endeavouring to receive written consents from the committee I now realise that the opportunity for holding the elections by the end of 2012 has expired. However, it is my intention that the calling of the election be initiated before the end of this year to assist in resynchronising the calling of elections with the rules of the organisation. Hence, I request that we be allowed to reduce "the day occurring 2 months before the first day when a person may, under the rules...become a candidate in an election." to 1 month for this election only.

Yours Faithfully

Sam Moody
Secretary
Musicians Union of Australia - Adelaide Branch

The Industrial Registrar
Level 8 Terrace Towers
80 William St
East Sydney
NSW 2011



Musicians Union of Australia
Adelaide Branch
U4 23A King William Rd Unley
SA 5061
ph 8272 5013
mob 0412 933 865
musosa@bigpond.net.au

Statement and Notice of Prescribed Information for an Election

I, Sam Moody, Adelaide Branch Secretary of the Musicians' Union of Australia, make the following statement:

I am the Branch Secretary of the Musicians' Union of Australia – Adelaide Branch,

I am authorised to lodge the following prescribed information concerning forthcoming elections in the Adelaide Branch of the Musicians' Union of Australia, and

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

Signed: *Sam Moody*
Dated: *23/10/12*

Offices/Positions

	<i>Branch President (1) (Direct voting system)</i>
	<i>Branch Vice-Presidents (2) (DVS)</i>
	<i>Branch Executive Committee Members (8) (DVS)</i>
	<i>Branch Trustees (3) (DVS)</i>

Reasons for election:

election for offices and positions are required as the terms of office are due to expire in the normal course of events under the rules of the organisation.(Rule 73 C a)

Elected by:

The electorate for the direct voting system is the whole of the Branch.

Nominations open:

For offices to elected by direct voting system – Monday December 3rd 2012

Nominations close:

For offices to be elected by direct voting system - 12 noon, Friday January 3rd 2013

Cut off date for roll: in all cases: 7 days prior to the opening date for nominations - rule 73B (d)



FAIR WORK
AUSTRALIA

18 June 2012

Mr Sam Moody
Secretary, Adelaide Branch
Musicians' Union of Australia
Unit 4, 23A King William Road
UNLEY SA 5061

Dear Mr Moody



Elections - Musicians' Union of Australia, Adelaide Branch

I am writing to you in relation to the elections for offices in the Branch which must be conducted at the expiry of the current term of office.

The last election conducted for the Branch's offices was E2010/2669. The Delegate's decision in that matter was granted on 16 September 2010 and the result of the election was declared on 11 February 2011.

There are two issues which I must draw to your attention and about which I seek your comment.

Election years

The first is that Rule 73C(a) of the rules of the organisation provides that elections for the offices other than Secretary are to be held every second year after 1982. Rule 73D provides that terms of office will be for the periods specified or until successors are elected. It may be thought desirable as well as reasonable therefore to ensure that elections are, as far as practicable, held at approximately the same time each election year so that the two-year terms will coincide with the even-numbered years specified in rule 73C(a).

However the current term technically commenced with the declaration by the Returning Officer in the early part of an odd-numbered year. I am conscious that, over time, a tension could arise between the desire to complete elections and thereby commence and end terms in the even-numbered years on the one hand, and the desire to observe the full period of office from declaration to declaration, where for any reason the conduct or completion of an election is delayed.

Presently, the nominal term for the offices elected in the last election will expire on 11 February 2013. If my interpretation of rule 73C(a) is correct, the Branch may wish to consider how it might most practicably bring its next election into alignment with the even-numbered year schedule contemplated by that rule.

This brings me to the second issue.

Prescribed day

Sub-section 189(2) of the *Fair Work (Registered Organisations) Act 2009* provides that "prescribed information must be lodged before the prescribed day or such later day as the General Manager allows." Regulation 138(3) says that the prescribed day is "the day occurring 2 months before the first day when a person may, under the rules...become a candidate in an election"

The first day a person can become a candidate is the opening day of nominations. The rules of the organisation do not identify a set date for the opening of nominations, merely that it shall be one month before the closing.

It is possible that the reference to 1 July 1982 in rule 73C(a) suggests that elections should commence on or soon after that date. Whatever date is arranged for the opening of nominations, the prescribed information must be lodged at least 2 months prior to the time when nominations will open. And in any case, it must be lodged before the nominal expiry of the term on 11 February 2013.

The details of the conduct of elections are the responsibility of the Australian Electoral Commission's Returning Officer, but if the Branch agrees that it would be desirable to complete the next scheduled election in the election year of 2012, lodgement of the prescribed information should occur sooner rather than later during the second half of 2012. A declaration of results by the Returning Officer, even in late 2012, would involve, in this case at least, a slight truncation of the actual two year term period for each current other office-holder on the Committee.

Please contact me on (02) 6723 7097 to discuss this matter, once you have had an opportunity to consider any impact on the Branch.

Yours sincerely



Stephen Kellett
Organisations, Research and Advice Branch

cc. Terry Noone, Federal Secretary