

# Australian Electoral Commission / AEC

Fair Work (Registered Organisations) Act 2009

## POST ELECTION REPORT

**Musicians' Union of Australia  
2012 Brisbane Branch Election**



### ELECTION/S COVERED IN THIS REPORT

Election Decision No/s: **E2012/295**

### RULES

Rules used for the election: *013N: incorporates alterations of 28/07/2009 in matter R2009/10008*

Rules difficult to apply/interpret: *Nil*  
Model Rule reference (if any): *N/A*

### 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

- 1) Declaration of Results for Uncontested Offices – 26 September 2012

Lesley Bowden  
Returning Officer

27 September 2012

**MUSICIANS' UNION OF AUSTRALIA  
2012 BRISBANE BRANCH ELECTION**

**DECLARATION OF RESULTS FOR UNCONTESTED OFFICES**

Results of the elections for the following offices conducted in accordance with the provisions of the Fair Work (Registered Organisation) Act 2009 and the rules of the organisation —

E 2012/295

<b>BRANCH PRESIDENT</b>	No nomination was received
<b>BRANCH VICE-PRESIDENTS (2)</b>	No nominations were received
<b>BRANCH TREASURER</b>	No nomination was received
<b>BRANCH SECRETARY</b>	No nomination was received
<b>BRANCH COMMITTEE MEMBERS (7)</b>	No nominations were received
<b>BRANCH TRUSTEES (3)</b>	No nominations were received

As no nomination was received for any position, I declare no candidates to be elected.



Lesley Bowden  
Returning Officer

26 September 2012



FAIR WORK  
AUSTRALIA

29 June 2012

Mr Terry Noone  
Federal Secretary  
Musicians' Union of Australia  
10 Black Street  
Mont Albert VIC 3127

Dear Mr Noone,

**Re: Arrangements for the conduct of an election - Musicians' Union of Australia, Brisbane Branch (E2012/295)**

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.

Yours sincerely

Michael Moutevelis  
Fair Work Australia



FAIR WORK  
AUSTRALIA

## DECISION

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

**Musicians' Union of Australia**  
(E2012/295)

AILS A CARRUTHERS

MELBOURNE, 29 JUNE 2012

*Arrangement for conduct of election.*

[1] On 14 June 2012 the Federal Secretary of the Musicians' Union of Australia ('the organisation') lodged with Fair Work Australia the prescribed information in relation to an election for the following offices in the Brisbane Branch of the organisation:

Branch President	(1)
Branch Vice-Presidents	(2)
Branch Treasurer	(1)
Branch Secretary	(1)
Branch Committee Members	(7)
Branch Trustees	(3)

[2] 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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## **MOUTEVELIS, Michael**

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**From:** RIA Sydney  
**Sent:** Friday, 29 June 2012 11:10 AM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** E2012/295  
**Attachments:** E2012\_295 MUA BRIS\_letter to AEC\_29062012.doc; MUA E2012\_295 Brisbane Signed decision\_29062012.pdf

Dear AEC

Please find attached a copy of the decision for the upcoming election of the Musicians' Union of Australia - Brisbane Branch (E2012/295).

Regards

**MICHAEL MOUTEVELIS**

Registered Organisations Unit - Sydney

**Fair Work Australia**

Tel: (02) 8374 6635

Fax: (02) 9380 6990

Email: [RIASydney@fwa.gov.au](mailto:RIASydney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street, East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)



FAIR WORK  
AUSTRALIA

29 June 2012

Electoral Commissioner Through  
Australian Electoral Officer ([industrial.elections@aec.gov.au](mailto:industrial.elections@aec.gov.au))

Under subsections 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 2012/295**

**RE: Musicians' Union of Australia - Brisbane Branch**  
Positions:

See Decision

Relevant Information:

Contact: Terry Noone, Federal Secretary

Phone: (03) 9899 8915

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@fwa.gov.au](mailto:industrial.elections@fwa.gov.au).

Michael Moutevelis  
Fair Work Australia

**MOUTEVELIS, Michael**

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**From:** KELLETT, Stephen  
**Sent:** Thursday, 14 June 2012 2:05 PM  
**To:** TEECE, Steve  
**Subject:** FW: Prescribed information E2012/295 - Musicians' Union of Australia, Brisbane Branch  
**Attachments:** Re: Musicians' Union Election notifications; MUA Bris electionnotification.pdf; Current Rules 013n.doc

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**From:** KELLETT, Stephen  
**Sent:** Thursday, 14 June 2012 12:33 PM  
**To:** 'industrial.elections@aec.gov.au'  
**Subject:** Prescribed information E2012/295 - Musicians' Union of Australia, Brisbane Branch

Electoral Commissioner Through  
Australian Election Officer

Please find attached a statement of prescribed information in relation to an election for offices in the Brisbane Branch of the Musicians Union of Australia.

The matter number is E2012/295. A copy of the current rules of the organisation is attached.

Yours sincerely

Stephen Kellett  
Organisations, Research and Advice Branch  
**FAIR WORK AUSTRALIA**

80 William Street  
EAST SYDNEY NSW 2011  
(ph) (02) 6723 7097

## **MOULEVELIS, Michael**

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**From:** Musiciansua@aol.com  
**Sent:** Thursday, 14 June 2012 11:53 AM  
**To:** KELLETT, Stephen  
**Subject:** Re: Musicians' Union Election notifications  
**Attachments:** MUA Mel electionnotification.ZIP

Dear Stephen,

Please find attached election notifications for the Melbourne and Brisbane Branches of the MUA.

Please contact me if you have any questions.

Yours sincerely

Terry Noone  
Federal Secretary  
Musicians' Union of Australia  
Tel: (03)9899 8915  
Fax: (03)9008 7823  
Mob: 0409 405 657  
Email: [musiciansua@gmail.com](mailto:musiciansua@gmail.com)  
Web: [www.musicians.asn.au](http://www.musicians.asn.au)



Fair Work Australia  
Level 8, Terrace Tower  
80 William Street, East Sydney,  
2011

14/6/12



**THE MUSICIANS' UNION  
OF AUSTRALIA**  
FEDERAL OFFICE

**Re: Request for elections**

Please find attached the prescribed information required under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009. The requested elections are for Branch Officers and Trustees of the Brisbane Branch of the Musicians' Union of Australia. A copy of a motion passed by the Federal Executive of the Musicians' Union of Australia which authorises me to lodge this application under the rules of the union is also attached.

Please contact me if you have any questions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Terry Noone'.

Terry Noone  
Federal Secretary  
Musicians' Union of Australia

**10 Black St, Mont Albert, VIC 3127**

**t: (03) 9899 8915**

**f: (03) 9008 7823**

**e: musiciansua@aol.com**

Motion MEL3.2003

Submitted to Federal Executive on 14/7/03 for voting by fax under rule 52(b)

*"a) That the Federal Secretary of the Musicians' Union of Australia shall be empowered to take over the affairs of the Brisbane Branch under Rule 40(j)(23), inform the membership of the branch of the current situation and appoint interim office bearers and committee members of that branch who shall hold office until such time as office bearers, committee members and trustees of the Brisbane Branch are elected in accordance with the rules of the Musicians' Union of Australia.*

*b) The Federal Secretary shall arrange for the conducting of elections for office bearers, committee members and trustees of the Brisbane Branch by the Australian Electoral Office.*

*c) The Federal Secretary shall be a co-signatory of all bank accounts of the Brisbane Branch until such time as office bearers, committee members and trustees of the Brisbane Branch are elected in accordance with the rules of the Musicians' Union of Australia."*

motion passed

*ZJW*

## Notice and Statement of Prescribed Information for an Election

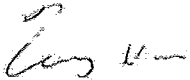
I, **Terry Noone**, being the **Federal Secretary** of the **Musicians' Union of Australia** make the following statement:

I am the **Federal Secretary** of the **Musicians' Union of Australia**,

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

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

Signed:



Dated: 14/6/12

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### Offices/Positions

<b>A</b>	Branch President (Direct Voting System)
	Branch Vice-Presidents (2) (DVS)
	Branch Treasurer (DVS)
	Branch Secretary (DVS)
	Branch Executive Committee Members (7) (DVS)
<b>B</b>	Branch Trustees (3) (DVS)

### Reasons for election:

- Election for offices and positions marked A and B respectively are required as the officers have resigned or their terms have expired. Since the offices have been effectively unoccupied for a number of years we wish to ensure that members are represented by validly elected officers in accordance with the rules and the Act.

### Elected by:

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

### Nominations open:

- For offices to be elected by direct voting system - *To be arranged with the AEC* - one month before close of nominations - rule 73B(a)

### Nominations close:

- For offices to be elected by direct voting system - *To be arranged with the AEC* - one month after opening of nominations - rule 73B(a)

### Cut off date for roll:

- In all cases - 7 days prior to the opening date for nominations - rule 73B(d).



FAIR WORK  
AUSTRALIA

16 May 2012

Mr Terry Noone  
Federal Secretary  
Musicians' Union of Australia  
150 Bell Street  
COBURG VIC 3058

Dear Mr Noone,

**Re: Elections – Musicians' Union of Australia**

I refer to the Annual Return of Information lodged under section 233(1) of the *Fair Work (Registered Organisations) Act 2009* ('the Act') which was received by Fair Work Australia on 15 March 2012.

The Return lists, in accordance with regulation 147(e), the offices for which elections are due in 2012. These include the offices of Secretaries for the Brisbane, Launceston and Melbourne Branches, and all other offices for the Federal Office and all Branches.

Under the rules, elections for the office of Secretary must be held every four years and elections for other offices must be held biennially, except in the case of the other Federal offices, where the term of office is three years.

**Overdue elections**

A review of the last elections conducted for the organization shows that some elections are overdue. These include an election for (1) the office of Secretary, Melbourne Branch; (2) the offices of other office-bearers and members of Committees of Management for the Launceston, Sydney and Hobart Branches.

The last election on record for the office of Secretary, Melbourne Branch is E2007/4, declared 6 December 2007, and the last elections for the other offices for the aforementioned Branches were E2008/290 (declared 6 March 2009), E2008/286 (declared 14 April 2009) and E2009/10031 (declared 9 December 2009) respectively. This means that, at the very latest, that is, upon the expiry of the nominal term, elections for these offices should have been conducted in March, April and December 2011.

In relation to the aforementioned elections I have identified as overdue, prescribed information should be lodged without delay by the authorized officer(s). In the case of the Melbourne Branch, this should be lodged by you in your capacity as Branch Secretary. I am writing separately to each other Branch Secretary in relation to the elections due for their Branch and will forward you a courtesy copy of my correspondence.

**Brisbane Branch**

A review of the Annual Returns of information lodged since 2004 also raises a question in relation to the Brisbane Branch. Each Return has indicated that elections are due for all offices for the Brisbane Branch. However, the last election for all offices was E2002/194, declared unfilled on 28 February 2003. It has

been our understanding over recent years that you have taken over the affairs of the Branch pursuant to rule 40(j)(23) and that this was a permanent or long-term arrangement.

The question is whether this is how the rule is intended to operate, or whether it was contemplated to provide only for temporary relief while attempts were made to re-organize a Branch. There are references to the requirement in certain circumstances to re-organize a Branch in rule 19(bb)(1) and rule 64 but it is not clear to me whether they qualify or otherwise affect the exercise of the power in rule 40(j)(23).

Further, there is a question whether and to what extent recourse to rule 40(j)(23) means the Branch can be said to no longer have offices that, under section 182 of the Act, must be the subject of elections conducted by the Australian Electoral Office and for which prescribed information must be lodged under section 189(1).

The listing of the Brisbane Branch offices on the Annual Return each year suggests that the organization still considers that the offices provided for in the rules for the Brisbane Branch still exist though vacant. If that is the case, then the attempt to fill the offices by election will be necessary. How often or how persistently such attempts must be made to give effect to the rules needs considering but it is possible that in any event an attempt must be made at least in each year identified in the rules as an election year.

I seek your comments on the intention and operation of the relevant rules and the issue of the Branch's elections in order to clarify what will be necessary to comply with the Act and give effect to the rules of the organization.

If you wish to discuss any aspect before replying formally, please do not hesitate to contact me on (02) 6723 7097. I would appreciate your advice by Monday, 28 May 2012.

Yours sincerely,

Stephen Kellett

Organisations, Research and Advice Branch

FAIR WORK AUSTRALIA