

Mr Terry Noone
Branch Secretary
Musicians' Union of Australia – Melbourne Branch
10 Black St, Mont Albert Vic 3127



**Post Election Report For: Musicians' Union of Australia – Melbourne Branch Offices
Election E No 2012/296**

I refer to the above election for your organisation.

Section 197(1) of Schedule 1 of the Fair Work (Registered Organisations) Act 2009 requires the AEC to provide a written report on the conduct of the election to the Delegate of the General Manager 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 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) Act 2009 requires an organisation or branch to publish a notice on its web site 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.

A handwritten signature in black ink, appearing to read "Jack Thomson". The signature is fluid and cursive, with a large loop at the end.

Jack Thomson
Returning Officer

Fair Work (Registered Organisations) Act 2009
POST ELECTION REPORT
Musicians' Union of Australia – Melbourne Branch Offices

ELECTION/S COVERED IN THIS REPORT

Election Decision No/s:

E2012/296

RULES

Rules used for the election:

[013N: Incorporates alterations of 28/07/2009 in matter R2009/10008]

Rules difficult to apply/interpret:

Rule 73 (C) (d) States:

“The positions on the ballot paper be drawn for by the Returning Officer or be listed alphabetically and each branch shall advise the Electoral Officer the method that the branch requires.”

The rule is not clear as to when the branch informs the RO of the ballot order selection method. Ie. After nominations close.

Rule 73 (C) (j & m)

“He shall control a ballot box provided for the reception of ballot papers and in the presence of the scrutineers if they desire to be present, he shall see that the said box is empty immediately prior to the opening of the voting and thereupon seal the said box and ensure that it remains sealed until the time fixed for the closing of the ballot.”

“At the time fixed for the counting of the ballot the Returning Officer shall open the ballot box in the presence of the scrutineers and, after removing the flap or label from each declaration envelope, shall count all the votes cast.”

Implication not plausible with AEC postal vote procedures

Rule 73 (C) (k)

“It shall be the duty of every member to record his vote at each election. Every such person who fails to vote at an election without reasonable excuse shall be liable to be fined a sum of not more than three dollars by the Branch Committee.”

Implies compulsory voting, there is no method outlined of tracking who has voted – Rule 73 (C) (l) only outlines a postal vote process that states in part “each voter... shall place the declaration envelope in the prepaid addressed envelope and shall post it to the returning officer”

Rule 73 (C) (l)

“Each voter shall record his vote by crossing out the name of any candidate for whom he does not desire to vote or by a preferential system”

Not clear on whether the RO or branch decides this

Model Rule reference (if any):

N/A

ROLL OF VOTERS

Total number of voters on the Roll: Did not go to ballot
Number of apparent workplace addresses: Nil
Number of non-current addresses: Nil
Other matters pertaining to the roll of voters: Nil

IRREGULARITIES

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

ATTACHMENTS

Declaration of Results

A handwritten signature in black ink, appearing to read 'Jack Thomson', written in a cursive style.

Jack Thomson
Returning Officer
10th September 2012

**Musicians' Union of Australia
Branch Offices**

DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following offices conducted in accordance with the provisions of the Fair Work (Registered Organisations 2009) Act and the rules of the organisation.

E2012/296

Melbourne Branch

Branch President

Candidate

ANDERSON, Gavan Joseph

Branch Vice-President (2)

Candidates

BATES, Ed
ZAKHAROV, Martin

Branch Treasurer

Candidate

RICHARDS, Alan

Branch Secretary

Candidate

NOONE, Terry

Branch Committee Member (7)

Candidates

JAMES, David
WHITFORD, Peter
WILLIAMS, Stephen
No further nominations were received

Branch Trustee (3)

Candidates

ANDERSON, Gavan Joseph
NOONE, Terry
RICHARDS, Alan

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



Jack Thomson
Returning Officer
10/09/2012





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,
Melbourne Branch (E2012/296)**

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
(E2012/296)

AILS A CARRUTHERS

MELBOURNE, 29 JUNE 2012

Arrangement for conduct of election.

[1] On 14 June 2012 the Secretary of the Melbourne Branch 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 :

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

MOUVEVELIS, Michael

From: RIA Sydney
Sent: Friday, 29 June 2012 11:58 AM
To: 'industrial.elections@aec.gov.au'
Subject: E2012/296
Attachments: E2012_296 MUA MELB_letter to AEC_29062012.doc; MUA E2012_296 Melbourne Signed decision_29062012.pdf

Dear AEC

Please find attached a copy of the decision for the upcoming election of the Musicians' Union of Australia - Melbourne Branch (E2012/296).

Regards

MICHAEL MOUVEVELIS
Registered Organisations Unit - Sydney

Fair Work Australia
Tel: (02) 8374 6635
Fax: (02) 9380 6990
Email: RIASydney@fwa.gov.au

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

www.fwa.gov.au



FAIR WORK
AUSTRALIA

29 June 2012

Electoral Commissioner Through
Australian Electoral Officer (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 2012/296

RE: Musicians' Union of Australia - Melbourne 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.

Michael Moutevelis
Fair Work Australia

MOUTEVELIS, Michael

From: KELLETT, Stephen
Sent: Thursday, 14 June 2012 2:07 PM
To: industrial.elections@aec.gov.au
Subject: FW: Prescribed information E2012/296 - Musicians' Union of Australia, Melbourne Branch
Attachments: Re: Musicians' Union Election notifications; Current Rules 013n.doc; MUA Mel electionnotification.pdf

Electoral Commissioner Through
Australian Election Officer

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

The matter number is E2012/296. 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

MOUTEVELIS, Michael

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
Web: 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
MELBOURNE BRANCH

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 Melbourne Branch of the Musicians' Union of Australia.

Please contact me if you have any questions.

Yours sincerely

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

Terry Noone
Secretary
Musicians' Union of Australia
(Melbourne Branch)

Notice and Statement of Prescribed Information for an Election

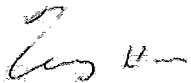
I, **Terry Noone**, being the **Branch Secretary** of the **Musicians' Union of Australia (Melbourne Branch)**, make the following statement:

I am the **Branch Secretary** of the **Musicians' Union of Australia (Melbourne Branch)**,

I am authorised to lodge the following prescribed information concerning forthcoming elections in the **Melbourne 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

Offices/Positions

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

Reasons for election:

- Election for offices and positions marked A and B respectively are required as the terms of office are about to expire or have expired in the normal course of events under the rules of the organisation and also to ensure that biennial election of officers and the quadrennial election of secretary remain synchronised.

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