

12 March 2021

Post-election report

**National Electrical and
Communications Association**

Queensland Branch

Casual Vacancy election

E2020/224

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Election(s) Covered in this Report

Organisation: Queensland Branch
Election: Casual Vacancy
Election Decision No/s: E2020/224

Rules

Rules used for the election: [233V: Incorporates alterations of 14 July 2020 [D2020/3 & R2020/63]
(replaces rulebook dated 14 February 2020 [D2019/23])

Rules difficult to apply/interpret: None
Model Rule reference (if any): N/A
For more details see the Model Rules on the AEC website:
(https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections)

Roll of Voters

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

Total number of voters on the Roll:
Number of apparent workplace addresses:

Number of non-current addresses:

Other matters pertaining to the roll of voters:

Irregularities

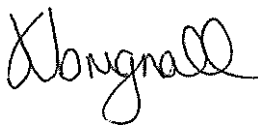
Details of written allegations of irregularities,
and action taken by AEC:

Other irregularities identified, and action taken:

Other Matters

Returning Officer actions required (Section 193): No
Details:

Signed



Kelly Brignall
Returning Officer
Australian Electoral Commission
E: IEEvents@aec.gov.au
P: 02 9375 6365
12/03/2021

Attachments

A. Declaration of Results for Uncontested Offices

National Electrical and Communications Association
Queensland Branch
DECLARATION OF RESULTS - E2020/224
Uncontested Offices

Casual Vacancy Election

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

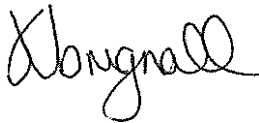
Queensland Branch

Branch Secretary (1)

Candidates

JUDD Oliver

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



Kelly Brignall
Returning Officer
Telephone: 02 9375 6365
Email: IEBevents@aec.gov.au
10/03/2021





DECISION

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

National Electrical and Communications Association (E2020/224)

MR STEENSON

SYDNEY, 21 DECEMBER 2020

Arrangement for conduct of election.

[1] On 1 December 2020 the Queensland Branch of the National Electrical and Communications Association lodged with the Registered Organisations Commission prescribed information to fill a casual vacancy in the following office:

Queensland Branch Secretary (1)

[2] The prescribed information lodged on 1 December 2020 was signed by a person who had purportedly been temporarily appointed to the office of Branch Secretary. However, the organisation’s rules, in particular rule 30.1, do not allow for the temporary appointment to the office of Branch Secretary following a vacancy in that office arising. (This stands in contrast with the organisation’s previous rules, which had allowed such temporary appointments pending the holding of a casual vacancy election for Secretary).¹

[3] Accordingly, following communications between the Commission and the organisation, on 16 December 2020 amended prescribed information was lodged by the organisation on behalf of the Queensland Branch

[4] Rule 30.2 of the organisation rules relevantly provides that where a vacancy arises in the office of Branch Secretary, an election must be held within three months of the date that the vacancy arises. The vacancy in the office of Queensland Branch Secretary arose on 10 November 2020. Based on rule 30.2, the election to fill the casual vacancy in that office is required to be held by 11 February 2021.

[5] Furthermore, the organisation’s rules specify timelines for the opening and closing dates for nominations and the opening and closing dates for a ballot in an election to fill a casual vacancy for the office of Branch Secretary. Rules 34.1 and 36.5 stipulate that nominations are to remain open for between seven (7) and 28 days and rules 36.7 and 37.9(c)(i) provide that if a ballot is required, the ballot must remain open for at least 14 days after the forwarding of the ballot paper to the voting members.

¹ In particular, previous rulebook D2019/23 and its predecessors, at rule 26(c) in relation to Chapter Secretary (as the office of Branch Secretary was then named) and at rule 19(c) in relation to National Secretary. Those rules were superseded by the organisation’s current rulebook which took effect when the Fair Work Commission certified rule alterations in matters D2020/3 and R2020/63, with effect from 14 July 2020.

[6] Regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009* requires that prescribed information for an election must be lodged “2 months before the first day when a person may, under the rules of the organisation or branch, become a candidate in an election”. The organisation did not lodge the prescribed information before the required date.

[7] The prescribed information should therefore have been lodged, at the latest, by 19 November 2020. This prescribed date takes into account the minimum number of days that nominations are required to remain open (at least seven days), the minimum number of days a ballot is required to remain open (14 days) and to allow for the printing and posting of the ballot papers to all financial members of the Branch.

[8] The original prescribed information was lodged on 1 December 2020. In its correspondence dated 16 December 2020, the organisation stated that the delay in lodging the prescribed information was due to the casual vacancy arising without advance notice and contended that the organisation has had a good record of lodging prescribed information on time.

[9] While the delay in initially lodging prescribed information to fill the casual vacancy was not lengthy (i.e. no more than 12 days after the prescribed date), the requirement for the prescribed information to be lodged very soon after the vacancy arises is a self-imposed time requirement set out in the organisation’s own rules. As previously stated, rule 30.2 requires an election for the office of Branch Secretary to be held within 3 months of the vacancy arising.

[10] I also note that the decision of the Australian Electoral Commission to suspend, until recently, the conduct of most industrial elections due to the COVID-19 pandemic and the flow-on effect of having to recommence postponed elections. This means that it is unlikely that the election will, in fact, be held within 3 months of the vacancy arising (i.e. by 11 February 2021).

[11] Having considered the organisation’s request for an extension of time to lodge the prescribed information, on this occasion I allow a later day for lodgement under section 189(2) of the *Fair Work (Registered Organisations) Act 2009* (the Act).

[12] I am satisfied that an election for the abovenamed office is required to be held under the rules of the organisation and, under subsection 189(3) of the Act, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

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PR351802

Registered Organisations Commissioner
Registered Organisations Commission
GPO Box 2983,
Melbourne VIC 3001

Attn: Mr Enright, Delegate of Commissioner
Attn: Ms Lo Booth

By email: regorgs@roc.gov.au

Dear Commissioner

Re: Prescribed Information for election to fill vacancy

Enclosed with this letter is the prescribed information in respect of an election required to fill the vacancy in the office of Queensland Branch Secretary, following the resignation of the previous Secretary, Mr Peter Lamont. A copy of Mr Lamont's letter of resignation is also enclosed.

Please note that the rules provide that the 4-year terms of office of National Secretary and each Branch Secretary operate independently from each other and independently and separately from the scheduled elections for honorary officeholders of NECA.

It is therefore the case that any "mid-term" vacancy for Branch Secretary is required to be filled by a regular election within 3 months of the vacancy arising, such that the successful candidate is entitled, upon declaration, to a (fresh) 4-year term.

With respect to this matter, we request a later date for lodgement be allowed on the grounds that the vacancy arose without advance notice and the original notice lodged on 1 December 2020 was insufficient for the specific purpose; such that the organisation has acted immediately to relodge the notice conformably with the advice of the Commission. It is also the case that the organisation has a good record of lodging prescribed information on time.

Please contact Ms Wendy Ramjee of this office (ph. 02 9349 8523) if you have any queries.

Yours sincerely



Oliver Judd
Acting National Secretary
15 December 2020
Encl (2)

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PRESCRIBED INFORMATION FOR ELECTION

I, Oliver Judd, being Acting National Secretary of the National Electrical and Communications Association (NECA), am authorised to make the following statement on behalf of the Queensland Branch under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009:

Pursuant to national Rule 30.2 an election is required to fill a vacancy in the office of Branch Secretary of the Queensland Branch, following the resignation of the previous Branch Secretary, Mr Peter Lamont. A copy of Mr Lamont's letter of resignation is at **Annexure A**.

Rule 30.2 provides "In the event the vacancy arises in the office of the National Secretary or Branch Secretary, an election must be held within three months of the date the vacancy arose."

In accordance with Regulation 138, the following information is provided -

Name of Office: Queensland Branch Secretary.

Reason for election: vacancy (as per rule 29.2(a)).

Electorate: if a ballot is required, the electorate comprises all financial members of the Qld Branch per rule 36.4.

Date and times for opening and closing nominations: to be determined by the Returning Officer.

Rule 36.5 - "An election for the office of Branch Secretary shall be conducted by the Branch Returning Officer who shall deliver or post to each member of the Branch Council nomination forms for the office of Branch Secretary. Each nomination form shall be accompanied by a notification specifying the closing date for nominations which shall not be less than seven nor more than twenty-eight days from the date of delivery or posting of the nomination forms."

Rule 36.6 – "Nominations shall be in writing signed by the nominator and assented to by the candidate and shall be endorsed by one member of the Branch Council."

Close of the voters roll: 10 working days prior to calling for such nominations.

Voting system (if a ballot is required): direct voting system.

Pending rule changes: Yes, but of no material effect to the election for the subject office.

A handwritten signature in blue ink, appearing to read 'O Judd', is written over a light blue horizontal line.

Oliver Judd
Acting National Secretary

15 December 2020