

[009Q: Incorporates alterations certified on 26/06/2018 in matter R2018/134]  
Replaces rulebook dated 26/08/2014 in R2014/194

## **Australian Federated Union of Locomotive Employees**

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 38 both inclusive contain a true and correct copy of the registered rules of the Australian Federated Union of Locomotive Employees.

DELEGATE OF THE GENERAL MANAGER  
FAIR WORK COMMISSION

# Rules of the Australian Federated Union of Locomotive Employees

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RULES OF  
AUSTRALIAN FEDERATED UNION OF LOCOMOTIVE EMPLOYEES

**RULE 1 - TITLE**

The name of the Union shall be:

Australian Federated Union of Locomotive Employees (hereinafter called "THE UNION").

**RULE 2 - REGISTERED OFFICE**

The Registered Office of the Union, which shall also be the place of meetings for the business of the Union to be conducted, shall be situated at:

Suite 45  
Level 8  
"K" Tower  
269 Wickham Terrace  
FORTITUDE VALLEY QLD 4006

or at such other place as the Divisional Council shall by resolution determine.

**RULE 3 - OBJECTS**

The objects of the Union are:

- (1) To uphold the rights of Organisation of Labour and to improve, protect and foster the best interest of members.
- (2) To obtain progressively improved working hours and to ensure that all members are to work in their classification.
- (3) To promote industrial peace by all amicable means such as conciliation and arbitration.
- (4) To prevent strikes and lock-outs between members of the Union and their employers.
- (5) To secure by just and equitable methods, the settlement of any difference that may arise between members and their employers.
- (6) To establish Divisions and Sub Branches wherever required in the State of Queensland.
- (7) To establish a newspaper or magazine in the interest of the Union at such time as may be deemed proper.
- (8) To establish superannuation and insurance funds and undertake other co-operative enterprises for the benefit of members.
- (9) To assist the industrial movement generally, and to promote and encourage closer unity amongst all Trade Unions with provision for the protection of our interest and funds as Locomotive Employees.

- (10) To extend the powers of the Union to the utmost possible limit for the benefit of members.
- (11) To establish funds:
  - (a) For the mutual assistance and support of members as provided for in these rules.
  - (b) To carry out the foregoing objects.
- (12) To obtain preference in the Railway Train Running Industry and/or establish an A.F.U.L.E. Award.

**RULE 4 - CONSTITUTION**

- (1) The Union shall consist of an unlimited number of persons eligible to be employed in the Railway Train Running Industry including Locomotive Drivers, Electric Train Drivers, Firemen, Electric-Helpers, Chargemen and Cleaners, Packers and Trimmers, Wash-out Men, Wash-out Men's Assistants, Motor Drivers and any other worker engaged in and about the working or management of or incidental to any Steam Locomotive, Diesel Electric Locomotives or Motor driven by electricity or other power used on the Railway.
- (2) Rule 4(1) shall apply provided that the Union shall only be eligible to represent members employed within Queensland.
- (3) PROVIDED however that nothing in this rule shall render eligible for membership any person who is eligible for membership of the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia ('the ETU') under that Union's eligibility rule as registered at 1 April, 2007.
  - (a) PROVIDED further that Rule 4(3) shall not apply to persons eligible for membership of the ETU by virtue of their being usually employed in an occupation falling within the constitution of the ETU, during periods when such persons are employed:
    - In the locomotive grades of a railway operator; or
    - As a Trainee Locomotive Driver, Locomotive Driver or Locomotive Driver Trainer, howsoever called; or
    - As an assistant to the foregoing, howsoever called; or
    - In a position requiring the person to hold a qualification as a Locomotive Driver.
  - (b) PROVIDED further that Rule 4(3) shall not apply to persons who, in the performance of their duties, move locomotives or other forms of motive power in any rail yard, running shed, provisioning shed or on any main running line.
- (4) PROVIDED however that nothing in this rule shall render eligible for membership any person who is eligible for membership of the Construction, Forestry, Mining and Energy Union.

- (a) PROVIDED further that Rule 4(4) shall not apply to persons eligible for membership of the CFMEU by virtue of their being employed in the following occupations or callings:
- In the locomotive grades of a railway operator; or
  - As a Trainee Locomotive Driver, Locomotive Driver or Locomotive Driver Trainer, howsoever called; or
  - As an assistant to the foregoing, howsoever called; or
  - In a position requiring the person to hold a qualification as a Locomotive Driver.
- (b) PROVIDED further that Rule 4(4) shall not apply to persons who, in the performance of their duties, move locomotives or other forms of motive power in any rail yard, running shed, provisioning shed or on any main running line.
- (5) PROVIDED however that nothing in this rule shall render eligible for membership of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union under that Union's eligibility rule as registered at 1 March, 2007.
- (a) PROVIDED further that Rule 4(5) shall not apply to persons eligible for membership of the AMWU by virtue of their being usually employed in an occupation falling within the constitution of the AMWU, during periods when such persons are employed:
- In the locomotive grades of a railway operator; or
  - As a Trainee Locomotive Driver, Locomotive Driver or Locomotive Driver Trainer, howsoever called; or
  - As an assistant to the foregoing, howsoever called; or
  - In a position requiring the person to hold a qualification as a Locomotive Driver.
- (b) PROVIDED further that Rule 4(5) shall not apply to persons who, in the performance of their duties, move locomotives or other forms of motive power in any rail yard, running shed, provisioning shed or on any main running line.

#### **RULE 5 - ADMISSION OF MEMBERS**

- (1) Any person eligible to become a member of this Union shall make application to the State Secretary or duly appointed representative of the Union and shall sign a printed form to be provided by the Union. Such form, (which the member shall receive a copy) shall contain the financial obligations arising from membership together with the circumstances and manner in which a member may resign from the Union as provided for in the Rules. When the applicant certifies his/her desire to be admitted as a member and their willingness to abide by the rules and to any amendments and additions which may be duly laid to these rules they may be admitted to membership of the Union.

- (2) When a member leaves employment in the Railway Train Running Industry, he/she automatically terminates his/her membership in the Union, unless he/she be an employee of the Union, or eligible to retain membership under Rule 42.

### **RULE 6 - RESIGNATION FROM MEMBERSHIP**

- (1) A member of the Union may resign from membership by written notice addressed and delivered to the State Secretary of the Union, or another officer authorised by the Union to receive such correspondence.
- (2) A notice of resignation from membership of the Union takes effect:
- (a) where the member ceases to be eligible to become a member of the Union:
- (i) on the day on which the notice is received by the Union; or
- (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;
- whichever is later; or
- (b) in any other case:
- (i) at the end of 2 weeks after the notice is received by the Union; or
- (ii) on the day specified in the notice;
- whichever is later.
- (3) Any dues payable but not paid by a former member of the Union, in relation to a period before the member's resignation from the Union took effect, may be sued for and recovered in the name of the Union, in a court of competent jurisdiction, as a debt due to the Union.
- (4) A notice delivered to the person(s) mentioned in subsection (1) is taken to have been received by the Union when it was delivered.
- (5) A notice of resignation that has been received by the Union is not invalid because it was not addressed and delivered in accordance with subsection (1).
- (6) A resignation from membership of the Union is valid even if it is not effected in accordance with this section if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.

### **RULE 7 - CONTRIBUTIONS**

- (1) Subject as hereinafter provided the contributions payable by members of the Union shall be determined by the Divisional Council of the Union on an annual basis.

- (2) Union contributions are due to be paid on the first day of January and July each calendar year. For the purpose of the rules a member shall be deemed to be unfinancial if contributions and levies are unpaid three (3) months after the commencement of each half yearly period.
- (3) Members making payment of Union Dues by way of payroll deductions shall be deemed as financial whilst such deductions in favour of the Union continue.
- (4) The State Secretary shall, at the completion of a census of membership each six (6) months, transfer the sum of \$2.00 per member to the Legal Contingency Fund and \$3.00 per member to the Mortality Fund.

#### **RULE 8 - LEVIES**

- (1) The Divisional Council shall have the power to levy the members of the Union for the purpose of carrying out the objects of the Union, provided that such levy does not exceed the equivalent of one day's pay per fortnight.
- (2) The amount of money collected by means of such levy shall be at the disposal of the Union, so long as same is devoted to the purpose or purposes for which the levy was made.

#### **RULE 9 - ARREARS OF CONTRIBUTIONS**

Every member who is over three (3) months in arrears of his/her contributions to the Union shall be deemed unfinancial and shall forfeit all claims upon the Union, and shall not be eligible for any of the benefits associated with membership of the Union.

#### **RULE 10 - GOVERNMENT**

The Union shall be governed, and the business thereof ruled and conducted by:

- (1) A Divisional Council.
- (2) A Committee of Management.

#### **RULE 11 - DIVISIONAL COUNCIL**

- (1) For the supreme government of this Union there shall be a Divisional Council consisting of the State President, State Secretary, State Vice- President, together with seven (7) Divisional Councillors. Provided that the Divisions may elect Proxy Divisional Councillors, who in the event of an elected Divisional Councillor being unable to attend meetings of the Divisional Council convened for any purpose, shall attend in his/her stead. A Proxy Divisional Councillor shall have the same rights, privileges and entitlements as a Divisional Councillor whilst attending any meeting as Proxy for a Divisional Councillor.

- (2) For the purpose of electing Divisional Councillors, the State shall be divided into seven Divisions, made of the following Sub Branches:

Division 1: Cairns, Townsville, Charters Towers, Hughenden, Cloncurry and Mt. Isa Sub Branches.

Division 2: All members of the Union employed in locations North of Rockhampton where the primary haulage is coal. Notwithstanding any other rule, Division 2 shall include members employed by QR (howsoever called and any successors or assigns) at Pring, Coppabella, and Jilalan Sub Branches.

Division 3: All members of the Union employed in locations of South of and including Rockhampton where the primary haulage is coal. Notwithstanding any other rule, Division 3 will include members employed by QR (howsoever called and any successors or assigns) at Callemondah and Bluff Sub Branches.

Division 4: Mackay, Rockhampton, Maryborough, Gayndah Emerald and Longreach Sub Branches.

Division 5: Nambour, Caboolture, Mayne, Ipswich (Passenger), Beenleigh, Robina, Manly, Petrie, Shorncliffe, Bundaberg Sub Branches.

Division 6: Fisherman Islands, Acacia Ridge and Ipswich (Freight) Sub Branches.

Division 7: Toowoomba, Roma, Charleville, and Goondiwindi Sub Branches.

- (3) One Divisional Councillor and one Proxy Divisional Councillor shall be elected by and from the members of each Division.
- (4) Subject as hereinafter provided, the State President, State Vice-President, seven (7) Divisional Councillors and seven (7) Proxy Divisional Councillors will be elected triennially in accordance with Rules 23 and 24.
- (5) (a) The Divisional Council shall meet in Brisbane at the registered Office of the Union or at any location decided on by the Divisional Council.
- (b) The Divisional Council will meet not less than three times per year. The date and time of each meeting will be determined by the Divisional Council.
- (c) In addition to Rule 11(5)(b), the Divisional Council of the Union may be convened at any time by the State President to deal with matters of urgency. In such cases, it shall not be necessary for the Divisional Council to meet in person. Rather, the Divisional Council may meet by way of telephone link, provided that the members of the Divisional Council attending the meeting are present on the telephone link at the same time.
- (d) Such meetings shall not be included for the purposes of Rule 11(5)(b).
- (e) The Divisional Council shall manage and control the business of the Union and shall in any matter which may arise have the power to take such action as it may think fit, so long as such action is not in conflict with the provision of any applicable industrial legislation and any amendments thereto.



- (f) Further, the Divisional Council shall have the power to delegate to the State Secretary of the Union any and all power and authority necessary to implement or give effect to the decision of the Divisional Council.
- (6) For all meetings of Divisional Council quorum shall be half the total number of members of the Divisional Council plus one.

### **RULE 12 - COMMITTEE OF MANAGEMENT**

- (1) There shall be a Committee of Management which shall consist of the State President, State Vice-President, State Secretary and all Divisional Council members residing in the metropolitan area, a majority of which shall form a quorum.

The Committee of Management shall have power to deal with all matters of urgency, and may also exercise all powers necessary to deal with the day to day affairs arising in the Union which cannot reasonably be delayed until the next sitting of the Divisional Council.

This power extends to the authorising of any action, step or authorisation required by the provisions of any applicable industrial legislation in respect of any matter to which the union is a party, or any application made by the union pursuant to that legislation.

- (2) The Committee of Management may be convened at any time by the State President, or as directed by Divisional Council.
- (3) Where it becomes necessary for the Committee of Management to do or determine upon any act or matter, or make any resolution or decision, it shall not be necessary to call a meeting whereat members shall personally attend, rather, it may be taken by:
- Telephone link; or
  - Verbal flying minute

Where any act, resolution or decision is to be taken by verbal flying minute, the State Secretary will communicate clearly to the members of the Committee of Management the business and the question to be voted upon and thereupon the members or a majority thereof shall at the earliest possible moment reply to the State Secretary and give their decision or record their vote in regard to the said matter or resolution.

- (4) A copy of the Minutes of each meeting of the Committee of Management including the decisions of that meeting and a copy of any decisions made in accordance with sub-clause (3) of this Rule shall be forwarded to every member of the Divisional Council within 14 days of the date of the termination of any such meeting or the making of any such decision.

### **RULE 13 - STATE PRESIDENT**

The State President shall:

- (1) Preside at all meetings of Divisional Council and preserve order so that business may be conducted in due form and propriety.

- (2) Upon confirmation of the Minutes sign the Minutes Book in the presence of the Meeting.
- (3) Consult with the State Secretary on matters effecting the welfare of the Union and sign all necessary documents.
- (4) Receive from members, through their respective Sub Branches, complaints against the State Secretary or any other Officer of the Union and place same before the Divisional Council.
- (5) Have power to convene a meeting of the Divisional Council whenever he/she deems it necessary.
- (6) When presiding over a meeting, have a deliberative vote only.
- (7) Receive as an Honorarium an amount of \$700 per annum, such amount to be reviewed annually as determined by Divisional Council in accordance with recognised CPI annual movements. This Clause is to have application only when performing the role of President in an Honorary capacity. Should the period of Honorary service be less than twelve (12) months, a pro rata amount as determined by Divisional Council is to be paid.
- (8) Unless otherwise determined by Divisional Council, the position of State President will be that of a full time paid position with salary and conditions equivalent to that of the State Secretary.
- (9) Be elected by and from the financial members of the Union in accordance with these Rules.

#### **RULE 14 - STATE VICE-PRESIDENT**

The State Vice-President shall:

- (1) When relieving the State President, perform the same duties and exercise the same rights and responsibilities as prescribed herein for that Officer.
- (2) Be elected by and from the financial members of the Union in accordance with these Rules.

#### **RULE 15 - TRUSTEES OF UNION**

- (1) The Trustees shall be two (2) in number, elected triennially by ballot of financial members of the Union at the time of the Election of Officers in accordance with these rules.
- (2) No person shall be nominated as a Trustee unless he/she is resident in the metropolitan area and is a financial member.
- (3) Should any Trustee cease to be eligible to hold office, his/her office shall be declared vacant, and the vacancy shall be filled in accordance with these rules.
- (4) Subject as hereinafter provided, all deeds, documents of title, and security of money of the Union shall be held by such Trustees and all real and personal properties of the Union, shall be vested in and be under control of such Trustees.
- (5) May invest any accumulated funds in securities allowed by law as the Divisional Council may direct, such direction to be given at a meeting of which due notice shall have been given.

**RULE 16 - STATE SECRETARY**

- (1) The State Secretary shall be elected by and from the financial members of the Union in the manner prescribed by these Rules. He/she shall be and remain a member of the Union. The person elected shall hold Office for a period of four (4) years.
- (2) Notwithstanding anything else where contained in these rules, he/she shall by virtue of the position of State Secretary, be a member of the Divisional Council and Committee of Management with full rights as prescribed by these rules on such bodies.
- (3) The opening and closing date of nominations and all other steps necessary to fill the position of State Secretary shall be advertised at least twice by way of the Union Newsletter and or Circular prior to the closing date of nominations.
- (4) The State Secretary shall be the registered person of the Union and shall be the person to sue or be sued on behalf of the Union.
- (5) The State Secretary shall not be eligible to hold office as a Trustee of the Union.

In the case of sickness, death, or the sudden termination of the service of the State Secretary from any cause, the State President or such other person as may be appointed by the Divisional Council shall temporarily carry out the duties of State Secretary until the vacancy is filled in accordance with these rules.

**RULE 17 - DUTIES OF STATE SECRETARY**

- (1) The State Secretary shall attend to Union business at the registered office, or where required for Union business on weekdays.
- (2) The State Secretary is fully authorised to sign and execute all documents on behalf of the union, provided that the signing or executing is undertaken in accordance with these rules. The State Secretary is fully authorised to undertake any act or step required by any relevant industrial legislation in respect of a matter to which the Union is a party or in respect of any application brought by the Union.
- (3) Keep all books and accounts necessary for carrying on the general work of the Union.
- (4) Conduct all correspondence between the Union and its Sub Branches and between the Union, and all other relevant parties.
- (5) Attend all meetings of the Divisional Council and Committee of Management.
- (6) Have recorded the minutes and proceedings of the Divisional Council and/or Committee of Management and Sub Committees appointed by the Divisional Council together with an extract of the opinions expressed by members present thereat with regard to the business being transacted.
- (7) Produce at each meeting of the Divisional Council all relevant correspondence received by him/her together with a copy of all correspondence sent out by him/her.
- (8) Deleted.

- (9) Keep a register of the names of Officers and members with their addresses as far as is known at the registered Office of the Union, the same to be open for inspection at all convenient times to the registrar or persons appointed by the latter.
- (10) Prepare and submit annually to the Divisional Council an audit of the Union's accounts.
- (11) The State Secretary shall be responsible for the notification to the Commission, in the prescribed manner, of the existence or likelihood of an industrial dispute involving the Union or any section of the Union or any member represented by the Union in the dispute.
- (12) The State Secretary shall have the custody of the seal of the Union which shall be used only on the authority of the Divisional Council and shall, together with the State President or Vice-President sign any instrument to which the seal is affixed.

### **RULE 18 - SUB BRANCHES**

- (1) If the Council decided to form a Sub Branch at any place, either in response to a memorandum or on its own initiatives, the President and Secretary of such Council shall take all steps in their opinion necessary for the formation of such Sub Branch and shall appoint temporary Officers of such Sub Branch, to act until such Sub Branch duly elects its own Officers.
- (2) There shall be a Sub Branch Committee in each Sub Branch which shall consist of the Sub Branch Officers. The Sub Branch Officers shall be Chairperson, Vice-Chairperson, Secretary and four (4) Committee Members.

The Sub Branch Officers shall be elected every three (3) years by ballot of the whole of the members of the Sub Branch in accordance with these Rules.

- (3) No Sub Branch shall carry into effect any Petition, Deputation, or formulate any Depot Policy which would affect the existing working conditions of either neighbouring Sub Branches, or the whole or any of the Division's members, unless the Petition, Deputation, or Depot Policy has been approved by the majority of members of such Sub Branch meeting or the majority of the Sub Branches. Such Petition, Deputation, or Depot Policy shall be ratified by Divisional Council before being carried into effect.
- (4) At all meetings of Sub Branch Committees, two (2) Committee members, in addition to the Chairperson and Secretary, shall constitute a quorum.
- (5) Deleted.
- (6) The Sub Branch Chairperson, in conjunction with the Sub Branch Secretary, shall be the official medium between the local employer and Sub Branch members.

In the absence of the Chairperson, the Vice-Chairperson shall act, and in the absence of both the Chairperson and Vice-Chairperson, a member of the Sub Branch Committee shall act in conjunction with the Secretary as the medium between the employers and the members.

- (7) At Sub Branch meetings five (5) financial members will constitute a quorum.
- (8) A meeting of a Sub Branch of the Union may be summoned by the Sub Branch Secretary by the posting of a notice in the Union notice case at least one week prior to the date of the meeting. This notice shall clearly state the date, time and location of the Sub Branch meeting.

- (9) A meeting of a Sub Branch Committee may be summoned by the Sub Branch Secretary who shall clearly communicate to all members of the Sub Branch Committee, verbally or in writing, the date, time and location of the Committee meeting.

#### **RULE 19 - SUB BRANCH SECRETARY**

- (1) The Sub Branch Secretary shall attend, where practicable, all ordinary or special meetings of his/her Sub Branch.

The Sub Branch Secretary shall be responsible for notifying all members of the Sub Branch, the time and place of all ordinary or special meetings. This to be activated by way of posting suitable notice in the workplace.

- (2) The Sub Branch Secretary must give one (1) months notice of resignation from this position where practicable.
- (3) Compile and forward to the State Secretary, not later than the 15th of July annually, a register of Sub Branch members recruited during the preceding 12 months.
- (4) A member holding office as Sub Branch Secretary shall be exempt from temporary or rotary or permanent transfer during the term of office, except when the transfer is for the purpose of promotion.
- (5) That Sub Branches be required to report to the State Secretary every three (3) months as to their activities and functions.
- (6) Forward monthly to the State Secretary, advice of movement of members, that is transfers into or out of depots, new members, deceased members and resignations.

#### **RULE 20 - DUTIES OF SUB BRANCH CHAIRPERSON**

The Sub Branch Chairperson shall preside at all meetings of his/her Sub Branch, where practicable and conduct the business with propriety and decorum. He/she shall sign all official documents and Minutes of his/her Sub Branch, and, when necessary, or on the request of twelve financial members or half the Sub Branch membership, whichever is the lesser, shall convene or order special meetings of his/her Sub Branch or Sub Branch Committee. He/she shall have a deliberative vote only.

#### **RULE 21 - DUTIES OF SUB BRANCH VICE-CHAIRPERSON**

The Sub Branch Vice-Chairperson shall assist the Sub Branch Chairperson in conducting the business of the Sub Branch meetings and preside in the Sub Branch Chairperson's absence, when he/she shall then exercise the rights conferred on that officer. In the absence of the Sub Branch Chairperson and Sub Branch Vice-Chairperson the meeting shall elect its own Chairperson.

**RULE 22 - RETURNING OFFICER**

- (1) Whenever it is necessary to take a ballot or referendum of the Union, or Division, or Sub Branch for any purpose other than for the election of office bearers, the Divisional Council or Sub Branch meeting as the case may be, shall have power to appoint a member of the union as Returning Officer, and any necessary Deputy Returning Officers for the purpose of conducting such ballot or referendum. Provided that no person shall be appointed a Returning Officer or Deputy Returning Officer in respect of any election for any position for which he/she is a candidate, nor shall he/she be the holder of any other office, nor be an employee of the Union, or Sub Branch.
- (2) In addition to the duties described in Rules 22 and 23 hereof, the Returning Officer or Deputy Returning Officer, as the case may be, shall be responsible for the safe custody of the ballot papers in his/her possession for distribution to members and also for the control of the ballot box provided to receive the ballot papers deposited in it by members who have exercised their vote.
- (3) The Returning Officer shall obtain from the printer a certificate setting out the number of ballot papers the latter has printed for each ballot conducted.
- (4) In the case of a referendum, the question or questions to be decided shall be clearly expressed on the ballot paper and the manner of voting for or against the proposition shall be stipulated.
- (5) In the case of the election of officers, the Divisional Council shall have the power, subject to the relevant industrial legislation, to appoint a manager of the election. Such manager of election shall act in accordance with the provisions of Rule 24. However, no person shall be appointed manager of election in respect of any election for any position for which he/she is a candidate, nor shall he/she be the holder of any other office, nor be an employee of the Union.

**RULE 23 - ELECTION OF OFFICERS**

- (1) The election of Officers of this Union shall be in accordance with these Rules or as determined by the statutory requirements of the relevant industrial legislation, or any other such act that impinges on the election of Officers of the Union.
- (2) In the event of a member gaining election for more than one (1) position, at either Divisional Council or Sub Branch level he/she shall be deemed to become the holder of the senior position and consequently forfeits the election of the junior position. The nominee with the next highest number of votes shall be declared the holder of the junior position.
- (3) For the purpose of elections, positions on the Divisional Council in seniority order are:  

State Secretary (1), State President (1), State Vice-President (1),  
Divisional Councillors (7).
- (4) For the purpose of elections, positions in Sub Branches in seniority order are:  

Sub Branch Secretary, Sub Branch Chairperson, Sub Branch Vice-Chairperson,  
Committee members.

- (5) Positions at the Divisional and Sub Branch levels may be held simultaneously by any elected member, other than the State Secretary, including a Trustee.

## **RULE 24 - BALLOTS**

### **PART 1—DEFINITIONS**

(1) Definitions

In these rules—

“ballot box” means a ballot box kept under section 17.

“candidate”, for an election, means a person—

- (a) who has nominated as a candidate for the office the election is about; and
- (b) whose nomination has been accepted under section 7(c); and
- (c) whose nomination has not been withdrawn.

“eligible member” means a person who was a financial member of the organisation 30 days before the starting time for nominations.

“higher office” means—

- (a) for the office of management committee member—any office other than the office of trustee;  
or
- (b) for the office of president—the office of secretary; or
- (c) for the office of vice-president—the office of president or secretary.

“initialled” by the manager of an election includes being marked with a facsimile of the manager’s initials.

“member” means a member of the organisation.

“relevant year” means the calendar year commencing on January 1 immediately following the expiry of a term of office under these rules.

“return envelope” see section 16(a)(ii).

“roll”, for an election, means the roll of voters prepared for the election under section 11.

“scrutineer” means—

- (a) a candidate who acts personally as a scrutineer; or
- (b) a person appointed as a scrutineer for a candidate under section 24.

“secretary” means—

- (a) the person holding office as the organisation’s secretary; or
- (b) another officer of the organisation, however described, who has the functions of the organisation’s secretary.

“trustee” means the office of a person holding, whether as trustee or otherwise, property—

- (a) of the organisation; or
- (b) that the organisation has a beneficial interest in.

“voter” means a person—

- (a) who is an eligible member; and
- (b) whose name is on the roll under section 11.

“voting material” see section 16(a).

## PART 2—MANAGER OF ELECTION

### (2) Manager of election—functions and powers

- (a) The manager of an election —
  - (i) must not influence, or attempt to influence, the outcome of the election; and
  - (ii) may take the action, and give the directions, the manager considers reasonably necessary to ensure that the processes under which the election is conducted are transparent; and
  - (iii) must ensure suitable arrangements are made with Australia Post for the return of ballot papers to a box or locked bag at a post office.
- (b) The manager of an election other than an electoral officer may take the action, and give the directions, the manager considers reasonably necessary—
  - (i) to ensure no irregularities happen in the election; or
  - (ii) to remedy a procedural defect that appears to the manager to exist about the election.
- (c) To ensure the integrity of an election, the address for return of ballot papers must not be the organisation’s usual postal address.



PART 3—PRE-ELECTION PROCEDURES

- (3) Closing day and time for nominations
- (a) The manager of the election must fix the opening day and closing day for nominations for office.
  - (b) The closing day for nominations shall be a date that allows for a ballot process to be conducted in accordance with these rules before the expiry of the term of office of the position for which the nominations are called.
  - (c) The closing day must be at least 28 days after notice is given under section 5.
  - (d) Nominations open at midday on the opening day and close at midday on the closing day.
- (4) Starting and finishing days of ballot
- (a) If a ballot becomes necessary under section 9, the manager of the election must fix the start and finish days for the ballot to decide the result of the election.
  - (b) The start day must not be before the closing day for nominations for the offices to be filled at the election.
- (5) Calling for nominations
- (a) The manager of the election must call for nominations for the offices to be filled by notice given to members in 1 of the following ways—
    - (i) by post to each member at the address recorded in the members register;
    - (ii) if the organisation publishes a journal or newsletter that it gives to its members free of charge, by advertisement in the journal or newsletter;
    - (iii) in a daily newspaper circulating in the area where the organisation's members live or work.
  - (b) The notice must state—
    - (i) the opening day for nominations; and
    - (ii) the closing day for nominations; and
    - (iii) that nominations for office—
      - (a) open at midday on the opening day; and
      - (b) close at midday on the closing day; and
    - (iv) who may nominate as a candidate in the election; and

- (v) that nominations for office must be written, signed by the nominee, nominated and seconded by financial members of the Union, and given to the manager before nominations close; and
- (vii) the starting and finishing days for a ballot to decide the result of the election if a ballot becomes necessary under section 9; and
- (viii) that only a person who was a financial member 30 days before the opening time for nominations may vote in the election; and
- (ix) that the ballot will be decided by a first-past-the-post system of voting.

(6) Who may nominate

A person eligible to nominate for election is a person who was financial at the time of nomination and;

- (a) for the position of State Secretary, has attended 25% of the meetings of his/her Sub Branch in the twelve months immediately preceding the closing date for nominations, provided that where absence from his/her Sub Branch meetings was due to attendance at other meetings of the Union, or engagement in Union duties, they shall not be required to meet the requirements of this provision.
- (b) for the position of President, Vice President and Divisional Councillor, has attended 25% of the meetings of his/her Sub Branch in the twelve months immediately preceding the closing date for nominations, provided that sitting members of the Divisional Council whose absence from their Sub Branch meeting has been due to their attendance at meetings of the Council, shall not be required to have completed such attendance.
- (c) for the position of State Secretary, only a person who:
  - (i) complies with subsection (a);
  - (ii) is an Ordinary Member, financial as at the date of the calling of the nominations; and
  - (iii) has been continuously financial for a period of two (2) years, may nominate for office.
- (d) for the positions of President, Vice President and Divisional Councillor, is a person who complies with sub section (b), and has twelve months financial membership of the Union.
- (e) for all other positions, was a financial member of the Union 30 days before the starting time for nominations.

(7) Nomination procedure

- (a) A nomination for office must be nominated and seconded by a financial member of the Union and signed by the nominee and given to the manager of the election before nominations close.

- (b) A person may nominate for more than 1 office.
  - (c) The manager must accept a nomination if—
    - (i) it complies with subsection (a); and
    - (ii) the nominee is an eligible member.
  - (d) A candidate may withdraw the candidate's nomination by written notice given to the manager no later than 7 days after nominations close.
- (8) What happens if a nomination is defective
- (a) The manager of the election must reject a nomination given to the manager of the election after nominations have closed.
  - (b) If a nomination for an office is defective, other than because the nominee is not qualified to hold the office or because the nomination was made after the closing time, the manager must—
    - (i) reject it; and
    - (ii) give the nominee notice of the defect; and
    - (iii) if practicable, give the nominee an opportunity to remedy the defect provided that, where practicable, such opportunity shall be for not less than seven days.
  - (c) If practicable, the notice must be given before nominations close.
  - (d) Failure to give the notice does not invalidate the election.
- (9) When a ballot must be held

If there are more candidates for election to an office than the number to be elected, the manager must conduct a secret postal ballot under part 4.

(10) Election without ballot

The manager of the election must declare a candidate elected to an office if—

- (a) nominations have closed; and
- (b) the candidate does not hold another office; and
- (c) the candidate has—
  - (i) not nominated for a higher office; or
  - (ii) nominated for a higher office and is not elected to the higher office; and
- (d) if the election is for president, vice president or secretary—the candidate is the only candidate; or

- (e) if the election is for another type of office—the number of candidates for the office is not more than the number of offices of the same type to be elected at the same time.

#### PART 4—CONDUCTING BALLOTS

##### Division 1—General

#### (11) Roll—preparation

- (a) A roll for a ballot must be prepared at the direction of the manager of the election.
- (b) The manager must ensure the roll—
  - (i) states—
    - (a) the name of each person who is an eligible member of the organisation in alphabetical order; and
    - (b) each eligible member’s address, opposite their name; and
  - (ii) is closed 30 days before the day on which nominations open.
  - (iii) is completed when nominations for the election close.
- (c) The organisation must give the manager—
  - (i) a copy of its members register; and
  - (ii) access to the organisation’s records reasonably necessary for the manager to ensure the roll is accurate.

#### (12) Roll—inspection

- (a) The manager of the election must make the roll for the election available for inspection—
  - (i) in the period that—
    - (a) starts on the day after the roll must be completed under section 11; and
    - (b) ends 30 days after the result of the election is declared; and
  - (ii) at the manager’s office when it is open for business.
- (b) A candidate, member or a person authorised by the manager may inspect the roll, free of charge.
- (c) If, during the period stated in subsection (a), a candidate or member asks for a copy of the roll or a stated part of the roll, the manager must give the person the copy, free of charge.

#### (13) When someone can claim a right to vote

- (a) Despite section 11(b), if an eligible member’s name does not appear on the roll, the member may apply to the manager of the election to have the member’s name included on the roll.

- (b) If the manager is satisfied the applicant is an eligible member, the manager must include the applicant's name on the roll.

Division 2—Voting material

(14) Ballot papers

- (a) A ballot paper for the election must —
  - (i) have a watermark or other distinctive pattern that prevents it from being reproduced other than by the manager or a person authorised by the manager; and
  - (ii) be of paper that will hide a vote marked on it from view when it is folded once; and
  - (iii) be a different colour from the colour used for ballot papers at the 2 previous elections held for the organisation; and
  - (iv) list the names of each candidate once only for each office the election is for, with the surname first, followed by the candidate's other names; and
  - (v) state how the voter may vote; and
  - (vi) state that the voter must sign the declaration envelope or the vote will not be counted; and
  - (vii) state that the voter must return the ballot paper to the manager so it is received on or before the finish day of the ballot.
- (b) The order of names on the ballot paper must be decided by lot.
- (c) If 2 or more candidates have the same surname and first names, the candidates must be distinguished in an appropriate way.

*Example—*

The occupation of each candidate may be added to the ballot paper.

(15) Declaration Envelope

- (a) The declaration envelope provided to a voter by the manager of election must comply with the following form:
  - (i) the declaration envelope must be a smaller envelope that fits inside the return envelope without needing to be folded;
  - (ii) the declaration envelope must contain on it a removable flap or label with the following details printed on it:
    - (a) the name and postal address of the voter;
    - (b) the declaration mentioned in section (15)(b);
    - (c) a place for the signature of the voter.

- (b) The declaration must state that the voter:
    - (i) is the voter named on the envelope; and
    - (ii) has voted on the ballot paper contained in the envelope; and
    - (iii) has not voted before in this ballot.
  - (c) To preserve the secrecy of the vote, the manager of election must remove the flap or label mentioned in section 15(a)(ii) from the declaration envelope before removing the ballot paper from the declaration envelope.
- (16) Distributing voting material
- (a) The manager of the election must post the following things (the “voting material”) to each voter—
    - (i) a ballot paper initialed by the manager;
    - (ii) an unsealed reply paid envelope (a “**return envelope**”) addressed to the manager;
    - (iii) a declaration envelope;
    - (iv) other material the manager considers appropriate for the ballot including, for example, directions or notes to help the eligible member to comply with these rules and cast a valid vote.
  - (b) Voting material must be posted to each voter—
    - (i) in a sealed envelope to the voter’s address on the roll; and
    - (ii) as soon as practicable, but no earlier than 2 days before the starting day of the ballot.
  - (c) If a voter gives the manager a notice that the voter will be at an address other than the address stated on the roll when voting material is to be given, the manager must post the material to the other address.
  - (d) Before posting voting material to a voter, the manager must mark a ballot number for each voter on—
    - (i) the roll against the voter’s name; and
    - (ii) the declaration envelope.
  - (e) The manager must give each voter a different ballot number.
  - (f) The ballot numbers must start with a number chosen by the manager.
  - (g) A ballot paper must not be marked in a way that could identify the voter.

(17) Manager must keep a ballot box

The manager must get a ballot box and—

- (a) keep the box in a safe place; and
- (b) seal the box in a way that—
  - (i) allows voting material to be put in it until the ballot finishes; and
  - (ii) prevents voting material from being taken from it until votes for the ballot are to be counted.

(18) Duplicate voting material

- (a) This section applies if voting material posted to a voter—
  - (i) has not been received by the voter; or
  - (ii) has been lost or destroyed; or
  - (iii) if the document is a ballot paper—has been spoilt.
- (b) The voter may apply to the manager of the election for a duplicate of the document.
- (c) The application must—
  - (i) be received by the manager on or before the finish day of the ballot; and
  - (ii) state the grounds on which it is made; and
  - (iii) if practicable, be substantiated by evidence verifying or tending to verify the grounds; and
  - (iv) state that the voter has not voted at the ballot; and
  - (v) if the document is a spoilt ballot paper—be accompanied by the ballot paper.
- (d) If the application complies with subsection (c), the manager must—
  - (i) if the document is a spoilt ballot paper—
    - (a) mark ‘spoilt’ on the paper; and
    - (b) initial the paper beside that marking and keep the paper; and
    - (c) give a fresh ballot paper to the voter; or
  - (ii) otherwise—give a duplicate of the document to the voter.

(19) Candidate Statements

- (a) Candidates for election shall be given equal opportunity to express their views to members of the Union in a statement that is given to each member with their ballot papers.

Division 3 – Voting

(20) How long ballot is open

A ballot must remain open for—

- (a) at least 21 days; and
- (b) no longer than 49 days.

(21) How to vote

A voter may vote only by completing the following steps—

- (a) completing a ballot paper by—
  - (i) writing a tick or cross in the square opposite the name or names of the number of candidates the voter may vote for under section 22; and
  - (ii) complying with the instructions on the paper about how to vote;
- (b) putting the ballot paper in a declaration envelope;
- (c) sealing the declaration envelope;
- (d) filling in and signing the voting declaration on the removable flap or label on the declaration envelope;
- (e) putting the declaration envelope in the return envelope;
- (f) sealing the return envelope;
- (g) complying with any direction given under section 16(a)(iv);
- (h) returning the return envelope to the manager of the election so that the envelope is received on or before the finish day for the ballot.

(22) How many votes may be cast

A voter may vote for only the following number of candidates on a ballot paper—

- (a) for an election for president, vice president or secretary—1 candidate;
- (b) for an election for another type of office—the number of candidates that is not more than the number of offices of the same type to be elected at the same time.



Division 4—Counting and scrutiny of votes

(23) How manager must deal with voting material

- (a) The manager of the election must put all voting material returned to the manager in the ballot box until voting has ended.
- (b) If, after the finishing day for the election, the manager receives a return envelope apparently containing a ballot paper for the election, the manager must—
  - (i) keep the envelope sealed; and
  - (ii) mark the envelope ‘Received by the manager after the finishing day for the ballot’; and
  - (iii) keep the envelope in safe custody, but separately from return envelopes received before or on the finishing day.

(24) Scrutineers—appointment

- (a) A candidate may—
  - (i) act personally as a scrutineer; or
  - (ii) appoint another person (an “**appointee**”) as a scrutineer for the candidate.
- (b) An appointment must be in writing and signed by the candidate.
- (c) A candidate must notify the manager of the election of the name of the candidate’s appointee as soon as possible after the appointee is appointed.
- (d) The manager may refuse to allow an appointee to act as a scrutineer if—
  - (i) the manager asks to inspect the appointment as a scrutineer; and
  - (ii) the appointee does not produce it.

(25) Scrutineers’ rights

Subject to section 26, a scrutineer may be present when—

- (a) ballot papers or other voting material for a ballot are prepared and given to voters; and
- (b) voting material is received and put in safe custody under section 23; and
- (c) votes are counted.

(26) Scrutineers—numbers attending

- (a) Each candidate may have only 1 scrutineer exercising a right under section 25 for each official present where the ballot is being conducted.

(b) In subsection (1)—

“**official**” means—

- (i) if the ballot is being conducted by the electoral commission—an electoral officer; or
- (ii) if the ballot is not being conducted by the electoral commission—
  - (a) the manager of the election; or
  - (b) any other person appointed by the manager to exercise the manager’s powers for the election.

(27) Initial scrutiny of voting material

(a) As soon as possible after the ballot finishes, the manager of the ballot must—

- (i) seal the ballot box in a way that prevents voting material from being put in it; and
- (ii) take the ballot box to the place where votes are to be counted.

(b) The manager must then—

- (i) unseal the ballot box; and
- (ii) take out the return envelopes; and
- (iii) open each return envelope and take out the declaration envelope; and
- (iv) examine the declaration and mark off the voter’s name on the roll; and
- (v) check the ballot number on the declaration against the ballot number marked against the voter’s name on the roll; and
- (vi) ensure the declaration is signed.
- (vii) separate the removable flap or label containing the declaration from the declaration envelope.

(c) After complying with subsection (b), the manager must put the declaration envelopes in a container and the removable declaration flaps or labels into another container if satisfied—

- (i) each declaration is signed; and
- (ii) the ballot number on each declaration corresponds with the ballot number marked beside the voter’s name on the roll.

- (d) However, the manager must not put a declaration envelope or removable declaration flap or label in the containers mentioned in subsection (c) if—
  - (i) the manager reasonably believes the voter to whom it was sent did not sign the declaration; or
  - (ii) the person named on the declaration is not the person to whom it was sent.
- (e) Subsection (d) does not apply if the manager is satisfied the person who filled in and signed the declaration—
  - (i) is a voter; and
  - (ii) has not previously voted in the ballot; and
  - (iii) has a reasonable explanation for using someone else’s ballot material.
- (f) The manager must keep declaration envelopes and removable declaration flaps or labels excluded under subsection (d) separate from other declaration envelopes and declarations.
- (g) A declaration is valid only if—
  - (i) it complies with subsection (c)(i) and (ii); and
  - (ii) subsection (d) does not apply.
- (h) A valid declaration must be accepted as valid, and an invalid declaration must be rejected, by the manager.
- (i) If a declaration is accepted as valid by the manager the manager must—
  - (i) note the acceptance of validity on the declaration; and
  - (ii) record the correct ballot number on the roll against the name of the voter who signed the declaration.
- (j) After separating the removable flaps or labels containing the declarations from the declaration envelopes, the manager must, in the following order—
  - (i) seal the container holding declarations;
  - (ii) open the declaration envelopes not excluded under subsection (d) and take out the ballot papers;
  - (iii) if a declaration envelope contains more than 1 ballot paper for each office the election is for—mark each of the ballot papers from the envelope ‘informal under section 28(b)(v)’;
  - (iv) put all of the ballot papers in the ballot box.

(28) Counting votes

- (a) To count votes the manager of the election must—
  - (i) admit the formal votes and reject the informal votes; and
  - (ii) count the formal votes, and record the number for each candidate; and
  - (iii) count the informal votes.
- (b) A vote is informal only if—
  - (i) the ballot paper is not initialed by the manager and the manager is not satisfied the paper is authentic; or
  - (ii) the ballot paper is marked in a way that allows the voter to be identified; or
  - (iii) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or
  - (iv) the ballot paper does not comply with a direction given under section 16(a)(iv); or
  - (v) the ballot paper was taken from a ballot envelope that contained another ballot paper for the office the election is for.

(29) Scrutineers' objections

- (a) Before votes are counted, a scrutineer may advise the manager that the scrutineer considers an error has been made in conducting the ballot.
- (b) When votes are counted, a scrutineer may—
  - (i) object to a ballot paper being admitted as formal or rejected as informal by the manager of the election; or
  - (ii) advise the manager of the election that the scrutineer considers an error has been made in conducting the ballot or counting votes.
- (c) If a scrutineer advises the manager under subsection (a) or (b)(ii), the manager must—
  - (i) decide whether the error has been made; and
  - (ii) if appropriate—direct action to correct or mitigate the error.
- (d) If a scrutineer objects under subsection (b)(i), the manager must—
  - (i) decide whether the ballot paper is to be admitted or rejected; and
  - (ii) note the decision on the ballot paper and initial the note.

(30) Direction by manager to leave count

The manager of the election may direct a person to leave the place where votes are being counted if the person—

- (a) does not have the right to be present at the count; or
- (b) Interrupts the count, other than to exercise a scrutineer's right.

Division 5—Election result

(31) How result is decided

- (a) The method of deciding the result of a ballot is by a first-past-the post system.
- (b) If only 1 office of the same type is to be filled in an election, the candidate with the most formal votes is elected.
- (c) If more than 1 office of the same type is to be filled, that number of candidates corresponding with the number of offices to be filled who have the most formal votes are elected.
- (d) This section is subject to sections 32 and 33.

(32) What happens if votes for 2 or more candidates are equal

- (a) If the manager can not decide which candidate is elected to an office because the votes cast for 2 or more candidates are equal, the manager of the election must decide which candidate is elected by drawing lots.
- (b) A decision under subsection (a) must be made in the presence of any scrutineer who wishes to attend.

(33) What happens if multiple nominee elected

If a candidate is elected to an office, other than as a trustee, and the candidate is also elected to a higher office, the manager of the election may only declare the candidate elected to the higher office. In such event, the person with the next highest number of votes shall be declared the holder of the junior position.

(34) Declaration of Ballot

The manager of an election or ballot must —

- (a) make a signed declaration of the result of the election or ballot as soon as possible after the votes for the election or ballot are counted; and
- (b) within 1 day of making the declaration, give a copy of it to—
  - (i) the State Secretary of the union; and
  - (ii) for an election—each candidate.

- (35) Term of Office
- (a) For the position of State Secretary, the term of office shall be four (4) years, commencing on January 1 of the relevant year.
  - (b) For the positions of State President, Vice-President, Divisional Councillor, Proxy Divisional Councillor and Trustees the term of office shall be three (3) years, commencing on January 1 of the relevant year.
  - (c) For Sub Branch positions, all officers shall hold office for a period of three (3) years, commencing on January 1 of the relevant year.
- (36) Election of Sub Branch Officers
- (a) Elections for Sub Branch Officers shall be conducted in a manner that is as close as practicable to that outlined in the rules above.

#### **RULE 25 - FILLING OF CASUAL VACANCY**

- (1) In the event of an extraordinary vacancy for positions of State Secretary, State President, State Vice-President, Divisional Councillor, Proxy Divisional Councillor, Sub Branch Secretary, Sub Branch Chairperson, Sub Branch Vice Secretary, Sub Branch Committee Member or Trustee due to death, resignation, retirement, permanent transfer, dismissal or for any other reason the vacancy shall be filled by an ordinary election if the unexpired part of the term of office is longer than the greater of
- (a) one year; or
  - (b) three-quarters of the term of office.
- (2) Should the extraordinary vacancy occur during the last 12 months of the officer's tenure for the positions of State Secretary, State President, State Vice-President, Divisional Councillor, Proxy Divisional Councillor or Trustee, the Divisional Council may appoint a replacement officer to act in the vacant position until the next ordinary election.
- (3) Should the extraordinary vacancy occur during the last 12 months of the officer's tenure for the positions of Sub Branch Secretary, Sub Branch Chairperson, Sub Branch Vice-Chairperson or Sub Branch Committee member, the Sub Branch Committee may appoint a replacement officer to act in the vacant position until the next ordinary election.

#### **RULE 26 – AUDITOR AND FINANCIAL YEAR**

- (1) (a) The Divisional Council shall appoint an Auditor to carry out a yearly audit of the books and accounts of the Union, as early as possible after the conclusion of the financial year and submit a report thereon to the Divisional Council.
- (b) The financial year is 1 July to 30 June.

- (2) (a) The State Secretary shall summon a meeting of members of the Union upon receipt of a written request signed by no less than 5% of the membership of the Union calling for a general meeting for the purpose of considering the auditors' report, the general purpose financial report and the operating report.
- (b) The State Secretary shall give 28 days notice to the members of the Union of any general meeting called pursuant to this Rule.
- (c) The State Secretary shall give notice of any meeting to be conducted pursuant to this Rule by written notice posted on a conspicuous place at each members place of employment or by email communication to each member or by notice published on the Union's website, or by publication sent to each member at their home address or by notice to each member.

### **RULE 27 - ALTERATION OF RULES**

- (1) The Divisional Council shall have the power to alter, amend or rescind any part of these Rules, in accordance with the following process:
  - (a) An amendment to the rules may be proposed by a Sub Branch, or the State President or State Secretary.
  - (b) Proposed amendment(s) to the rules must be provided to the State Secretary in writing.
  - (c) The State Secretary must provide a copy of the proposed amendment(s) in writing to the Divisional Councillors at least two weeks prior to the date of the Divisional Council at which the proposed amendments will be considered.
  - (d) The State Secretary must seek feedback from the Sub Branches of the union by providing each Sub Branch with a copy of the proposed amendment(s) in writing at least one month prior to the date of the Divisional Council meeting at which the proposed amendments are to be considered.
  - (e) Any feedback from the Sub Branches must be tabled at the Divisional Council prior to the proposed amendment(s) being voted upon.
  - (f) A simple majority is required to approve each proposed amendment.
- (2) Notwithstanding Rule 27(1) above, the Divisional Council and the Committee of Management both have the power to make, amend or rescind any rule at any time to:
  - Bring the rules of the union into compliance with the requirements of any relevant industrial legislation; or
  - Comply with an order, ruling, finding or recommendation of an industrial tribunal relating to the registration of the union or any application brought by the union.

In such cases, the rule changes must be ratified by the next sitting of the Divisional Council.

**RULE 28 - MORTALITY BENEFIT**

- (1) Should any financial member of the Union, being eligible for membership of the Union, who is contributing to the benefit fund herein provided, die while a financial member of the Union, including whilst engaged in the fighting forces (and remaining an employee of his or her train running grade employer) a mortality benefit shall be paid in accordance with the provisions of this rule.
- (2) An amount of \$4,000 shall be paid as soon as possible to an eligible person nominated by the member. An amount equal to 50% of the above entitlement shall be paid as soon as possible to the member on advice to the State Office that the member's spouse / partner has passed away.
- (3) To establish a Mortality Fund for the purpose of meeting payments promptly each member shall pay a mortality levy of \$3.00 each half year to maintain the funds of the Mortality Scheme. Those members paying contributions and levies by payroll deduction of union dues shall be deemed financial for the purpose of the above paragraph.
- (4) For the purpose of this Rule a member shall be deemed to be unfinancial if the \$3.00 levy is unpaid three (3) months after the commencement of each half yearly period.

Should a contributing member die within three (3) months after the commencement of each half yearly period and he or she has not paid the \$3.00 Mortality Levy the amount of such unpaid levy shall be deducted from the benefit.

- (5) For the purpose of this Rule, a member shall be deemed to cease being an employee of all relevant parties at the expiration of his/her current union ticket.

Provided that the State Secretary, State President (when employed full time by the Union in that position) and political members, while holding such position, remaining members of the union and contributing to this fund, shall be entitled to the benefits thereof.

- (6) A life member of the union, who has resigned or been retired from all relevant parties, shall, at the expiration of his/her current union ticket at the time of resignation or retirement, be excluded from participation in the mortality benefit scheme and excluded from any benefit therefrom.
- (7) Arrears of levies made under the authority of these Rules shall be deemed to be a debt due by the member of the union and (in addition to all other liabilities and disabilities to which a defaulting member may be subject), shall be recoverable by law.

**RULE 29 - SPECIAL GRANTS**

The Divisional Council shall have power to make a special grant, loan, or donation of an amount not exceeding \$1,000.00 from the General Fund of the Union for such purpose as is determined by the Divisional Council at regular or special meetings. Provided that these purposes be such as not to conflict with the objects of this Union. In the case of amounts in excess of \$1,000.00 the Divisional Council shall satisfy itself that the making of such grant, loan or donation is in accordance with the rules of the Union, and, in the case of a loan, the proposed security is adequate and proposed repayment arrangements are satisfactory.



**RULE 30 - MEMBERSHIP DISCIPLINARY**

- (1) Any member who:
  - (a) Refuses or neglects to abide by and observe the rules and resolutions of the union or,
  - (b) Acts in opposition to the objects of the Union or,
  - (c) Acts in a dishonourable, offensive or unbecoming manner, may be summoned by the Secretary thereof to a special or ordinary meeting of Divisional Council and or his/her Sub Branch, to explain his/her conduct.
- (2) If such member:
  - (a) Fails to attend,
  - (b) Fails to give to such meeting an explanation satisfactory to a majority of members present thereat, he or she may be fined, suspended or expelled, provided that, if a fine be imposed, then such fine shall not exceed a sum of monies equivalent to one (1) days' wages of the said member.
  - (c) Provided further that a Sub Branch shall not have the power to suspend or expel any member. Any member fined, suspended, or expelled, may within 28 days of the decision to fine, suspend or expel, appeal to the Divisional Council against such fine, suspension or expulsion, and the decision of the Divisional Council shall be final and conclusive.
- (3) No member who has been expelled from the Union shall be readmitted as a member without the consent of the Divisional Council.
- (4) Any member owing more than three (3) months contributions or dues shall be considered unfinancial and shall lose all rights and privileges of membership and may be sued for their arrears without notice.
- (5) Any member may be summoned before a Sub Branch of the Union or Divisional Council, by giving such summons to him/her personally, a reasonable time before any meeting of such Sub Branch or Divisional Council, or by posting such summons to him/her at their last known or most usual place of abode. All charges shall be made in writing, and shall be delivered with the summons at the time of the notice.
- (6) That any member (of their own volition) found to be using political influence for promotion or transfer purposes shall not be entitled to union support in regard to such promotion or transfer.

**RULE 31 - ASSISTANCE TO MEMBERS**

- (1) Any financial member who, while on duty, and in consequence of some accident, shall become liable to criminal prosecution, and who desires the Union to act on his/her behalf, may, if the Divisional Council considers his/her defence warranted, have the necessary expenses of his/her defence defrayed from the funds of the Union, if in the opinion of such Council, the funds be not sufficient to meet the necessary expenditure, a special levy may be imposed on all members to cover such expense.

- (2) When a financial member has been charged with an indictable offence committed whilst in the execution of his/her duty, the Divisional Council may, at the conclusion of the action, defray the cost or such portion of the cost of the defence as it deems expedient to meet.
- (3) Any financial member desirous of consideration under this Rule shall furnish, through his/her Sub Branch, all information to the State Secretary, as soon as possible after the financial member concerned learns that proceedings are being taken against him/her.
- (4) Any financial member who considers they have been unjustly dealt with by or on behalf of their employer in respect of the execution of their duty, may submit the case to their Sub Branch Secretary furnishing a written statement, together with all correspondence bearing on the matter and details of the evidence proposed to be given in support of such member, all of which evidence must be furnished on the honour of the witness. If an enquiry has been held into the matter, a copy of the evidence taken thereat shall also be submitted, if procurable. The Sub Branch or Sub Branch Committee shall then decide what action, if any, shall be taken by them. Provided that, in the likelihood of an Industrial Dispute occurring, the Sub Branch shall immediately forward all relevant information to the relevant Divisional Councillor and Head Office of the Union so as to enable the matter to be dealt with by the Divisional Council or Committee of Management.

Every financial member of the Division shall have the right of appeal, through his/her Sub Branch to the Divisional Council, whose decision shall be final.

- (5) Should any financial member be injured or killed in the execution of his/her duty, the case shall be remitted by the Sub Branch to which the financial member belongs, to Divisional Council, who shall use every endeavour to secure adequate compensation for those entitled thereto.

That any financial member on whose behalf the Union appears, give an undertaking that if the compensation case be successfully completed he/she be obliged to pay the costs of the case.

Further, that if the case is unsuccessfully completed, that the Union pay the costs of the case.

That Divisional Council only be authorised to agree to the merits of any compensation case taken by legal firm.

### **RULE 32 - AGREEMENT WITH EMPLOYEES**

No contract shall be entered into between the Divisional Council and any of the employees of the Division for any specified period of employment that cannot be terminated or ratified by a special meeting of Divisional Council.

### **RULE 33 - CONTROL BY MEMBERS**

- (1) The members of the Union shall have the following control over the Divisional Council and Committee of Management and Officers of the Union. If requested by resolutions of the members, in special general meetings convened for the purpose, of ten Sub Branches, or any lesser number of Sub Branches having between them at the time of such resolutions not less than half of the total membership of the Union, a ballot of all members shall be taken in the manner prescribed by these Rules within three (3) months of the communication to the State President, or the State Secretary, of the last such resolutions, upon the question raised by the resolutions, and the decision of the majority of members voting shall be binding and conclusive.

- (2) A special general meeting of a Sub Branch shall be summoned by a notice posted in the Union notice case at least one month prior to the date of the meeting. Such notice shall set out clearly the time, date and location of the meeting and the matters to be discussed.

### **RULE 34 - REMOVAL OF OFFICERS**

- (1) In addition to and without in anyway limiting any other provisions contained in these Rules, any Officer or member of the Divisional Council or Sub Branch Committee or a Divisional Trustee may be removed from Office by resolution carried at a meeting of:
- (a) In the case of any Officer, member of the Divisional Council or Divisional Trustee, the Divisional Council; or
- (b) In the case of a member of a Sub Branch Committee, that member's Sub Branch Committee.

Provided that the person concerned has been summoned in writing to show why he or she should not be so removed. Provided further that such person shall not be removed from office unless he or she has been found guilty of misappropriation of the funds of the union, a substantial breach of these rules, or gross misbehaviour or gross neglect of duty or has ceased, according to these rules, to be eligible to hold Office.

- (2) A person summoned to show cause pursuant to sub rule (1) of this rule shall be given at least 14 days notice of the time and place of the meeting of the Divisional Council or Sub Branch to which he/she is summoned and the notice summoning such person shall also specify the ground or grounds upon which it is proposed to consider such removal. Provided further that the person concerned shall be given the opportunity to show cause why he/she should not be so removed. The Divisional Council or Sub Branch as the case may be may proceed to hear and determine a matter under this rule notwithstanding the absence of the person summoned if due notice of the hearing has been given in accordance with this rule.

### **RULE 35 - ELIGIBILITY TO HOLD OFFICE**

Any person elected to any office within the Union shall cease to be eligible to hold office if:

- (1) He/she becomes unfinancial in accordance with the Uniform Rules.
- (2) He/she resigns by notice in writing to the State Secretary or Sub Branch Secretary.
- (3) A Trustee shall in addition to the above, cease to be eligible to hold office if he/she ceases to be a resident in the metropolitan area of Brisbane.

### **RULE 36 - REGISTER OF MEMBERS**

A register of the names of the members of the Union and of the Officers of the Divisional Council and Sub Branches shall be kept by the State Secretary at the registered office and shall be open at any convenient time for inspection by the Registrar, or any person appointed by such, or any other person as required by legislation.

### **RULE 37 - INSPECTION OF BOOKS**

All financial members interested in the funds of the Union shall be permitted to inspect the books and list of members at all reasonable times on an order signed as regards the books of the Union by the State President of the Union.

### **RULE 38 - FUNDS (DISBURSEMENT OF)**

- (1) For the management or administration of the ordinary affairs of the Union, there shall be three (3) funds, known as,

General Fund; Legal Contingency Fund; Mortality Benefit Fund.

The expenditure of such funds shall be under control of the Divisional Council, who shall ratify such expenditure by way of resolution after viewing the auditors report and cash payment book.

- (2) The Union shall develop and implement policies relating to the expenditure of the Union.
- (3) Each officer of the Union shall disclose to the Union any remuneration paid to the officer:
- (a) because the officer is a member of a board, if:
- (i) the officer is a member of the board only because the officer is an officer of the Union; or
  - (ii) the officer was nominated for the position as a member of the board by the Union or a peak council; or
  - (iii) by any related party of the Union in connection with the performance of the officers' duties as an officer.

(b) For the purposes of these rules *Officer* means a person who holds an office in the organisation.

- (4) The disclosure required by sub-rule (3) shall be made to the Union:
- (a) as soon as practicable after the remuneration is paid to the officer; and
  - (b) in writing to the State Secretary, or if the officer is the State Secretary, to the President of the Union.
- (5) (a) The Union shall disclose to the members of the Union:
- (i) the identity of the officers who are the five highest paid in terms of relevant remuneration for the disclosure period;
  - (ii) the actual amount of those officers' relevant remuneration for the disclosure period; and
  - (iii) either the value of the officers' relevant non-cash benefits, or the form of the officers' relevant non-cash benefits, for the disclosure period.

- (b) For the purposes of sub-rule (a) the disclosure shall be made:
  - (i) in relation to each financial year;
  - (ii) within six months after the end of the financial year; and
  - (iii) in writing.
- (c) For the purposes of this rule:
  - (i) Remuneration includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but does not include a non-cash benefit or the reimbursement or payment of reasonable expenses for the costs incurred in the course of the officer carrying out their duties.
  - (ii) Relevant remuneration for an officer of the Union, for the disclosure period, is the sum of the remuneration disclosed to the organisation under sub-rule (3) during the disclosure period and any remuneration paid to the officer by the organisation in the disclosure period.
  - (iii) For the purpose of rule 38 the disclosure period is the financial year, unless a shorter period is specified.
  - (iv) Non-cash benefits are property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
  - (v) Relevant non-cash benefits in relation to an officer of the Union for a disclosure period means non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer's duties as an officer, by the Union or a related party of the Union.
- (6) Each officer of the Union shall disclose to the Divisional Council any material personal interest in a matter that:
  - (i) the officer has or acquires; or
  - (ii) a relative of the officer has or acquires;that relates to the affairs of the Union.
  - (a) The disclosure required by sub-rule (6) shall be made to the Divisional Council:
    - (i) as soon as practicable after the interest is acquired; and
    - (ii) in writing.
  - (b) The Divisional Council shall disclose to the members of the Union any interests disclosed to the Divisional Council pursuant to sub-rule (6).

- (c) For the purposes of sub-rule (6), the disclosures by the Divisional Council shall be made:
    - (i) in relation to each financial year;
    - (ii) within six months after the end of the financial year;
    - (iii) in writing.
  - (d) For the purposes of this sub-rule a relative means a parent, step parent, child, step child, grandparent, grandchild, brother or sister of the person, or the spouse of the person.
- (7) The Divisional Council shall disclose to the members of the Union either:
- (a) each payment made by the Union, during the disclosure period:
    - (i) to a related party of the Union; or
    - (ii) to a declared person or body of the Union; or
  - (b) the total of the payments made by the Union, during the disclosure period:
    - (i) to each related party of the Union; or
    - (ii) to each declared person or body of the Union.
  - (c) sub-rule 7(a) and (b) do not apply to a payment made to a related party:
    - (i) if the payment consists of amounts deducted by the organisation from remuneration payable to officers or employees of the organisation; or
    - (ii) the related party is an officer of the organisation, and the payment:
      - (a) consists of remuneration paid to the officer by the organisation; or
      - (b) is reimbursement for expenses reasonably incurred by the officer in performing the officer's duties as an officer.
  - (d) For the purposes of sub-rule (a) and (b), the disclosure shall be made:
    - (i) in relation to each financial year;
    - (ii) within six months after the end of the financial year; and
    - (iii) in writing.
  - (e) For the purposes of these rules a **related party** has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*.
  - (f) For the purposes of these rules a **declared person or body** is such if an officer of the Union has disclosed a material personal interest under sub-rule (6) and the interest relates to, or is in, the person or body; and the officer has not notified the Union that the officer no longer has the interest.

- (8) Any person elected to an office in the Union whose duties relate to financial management shall undertake approved training that covers each of the officer's financial duties within six months of taking office, including any officer elected, or any officer appointed, in consequence upon a casual vacancy.

Any persons holding office in the Union at the time of commencement of these rules, whose duties relate to financial management, shall undertake approved training that covers each of the officer's financial duties within six months of commencement.

- (i) Training is *approved training* when it has been approved in accordance with the appropriate Federal legislation governing registered organisations.

### **RULE 39 - MEMBERS VISITING OTHER SUB BRANCHES**

Any member in good standing shall be entitled to attend any meeting of another Sub Branch on production of satisfactory evidence of membership, and shall be allowed to debate any motion brought forward, but shall not be allowed to bring forward any motion or vote.

### **RULE 40 - VOTING AT MEETINGS**

Unless otherwise provided for in these Rules, voting at all meetings held under the Rules of the Union, shall be by show of hands.

### **RULE 41 - LIFE MEMBERS**

Any member who has paid all dues and demands to the Union and has rendered special service to the Union may be appointed a life member by resolution of the Divisional Council and any member so appointed shall be entitled to the full rights of membership.

Provided further that such request for life membership must be at the request of the member's Sub Branch by resolution.

### **RULE 42 - POLITICAL MEMBERS**

Any member who may be elected to the Parliament of the Commonwealth or of a State, or to a City, Municipal or Shire Council, shall be privileged to retain his/her membership, provided that he/she pays all dues as prescribed by the rules.

### **RULE 43 - ATTENDANCE AT EXECUTIVE MEETINGS**

Members of the Union may attend a meeting of the Divisional Council, but no person who is not a member of the aforesaid Council whose meeting is then being held, shall speak on any question, or take part in the business of such meeting, except on the invitation of such Council. Provided that the aforesaid Council may at any time resolve itself into a Committee of the whole for the purpose of consideration of any particular matter or matters, and in such case, the meeting room shall be cleared of all persons other than members of such Council.

#### **RULE 44 - AFFILIATION WITH ALP, QCU**

This Union shall remain affiliated with the Australian Labour Party and the Queensland Council of Unions, until such time as the members by ballot, have decided otherwise.

#### **RULE 45- AMALGAMATIONS**

If at any time it shall be considered necessary in the general interests of the Union to amalgamate with any other Union or Unions, the Divisional Council is empowered to enter negotiations and agree upon terms for any such amalgamation, provided however, that no such amalgamation shall be entered into until the terms agreed upon are submitted to members for ballot conducted in accordance with these Rules and unless the majority of members voting in such ballot approve of the amalgamation upon the terms suggested.

#### **RULE 46 - DISSOLUTION**

The Union shall not be dissolved unless an absolute majority of two thirds of the members of the Union so decide. This decision is to be taken by a ballot conducted in accordance with these rules.

Provided that the proposal to dissolve has first appeared on the agenda paper for the Divisional Council meeting and has been dealt with by the Divisional Council as provided by these Rules.

#### **RULE 47 - COMMON SEAL**

A common seal of the Union, herein referred to as the seal shall be circular in form, surmounted by a scroll in the form of a locomotive spring, the centre shall consist of the outline of the continent of Australia, traversed by a locomotive. The ring surrounding the outline of the continent shall bear the words - Australian Federated Union of Locomotive Employees.

The seal shall be kept in the custody of the State Secretary at the registered office of the Union.

\*\*\*END OF RULES\*\*\*