



Fair Work (Registered Organisations) Act 2009
POST ELECTION REPORT
Construction, Forestry, Mining and Energy Union
Construction and General Division

ELECTION/S COVERED IN THIS REPORT

Election Decision No/s: E2016/134

RULES

Rules used for the election: 105N-BWIU: Incorporates alterations of 5 April 2016 in matter R2016/29.
105N-FED: Incorporates alterations of 19/05/2016 in matter R2016/75.

Rules difficult to apply/interpret: The Rules contained a number of transitional rules that are no longer applicable to the current election. This has made reading the rules difficult and there are a number of errors or terms that are no longer applicable. It is recommended that the rules are reviewed and only include those items which are current. The AEC is not able to provide a comprehensive review – however, below is a summary of Divisional rules which affected this election that the Union can use to start their review.

Rule 38 Divisional Branch Elections

(a) (vi) The scale of continuous financial membership should include Federal Executive Members (elected from the QNTDB)

(c) Delete references to District – no longer applicable

(c) The Union should review the method/s of calling for nomination to include modern means of communication. Each Branch have their own journals published at different times, which meant that it was untimely and impractical to utilise the journal to publish a whole of Division scheduled election notification for this election. Further, publication in a newspaper may also not have the wide readership to engage members in the election. Given that the timings of the election are quite specific (that is, dates of the month) – the Union should consider a notification method that is harmonious with this, for example a Divisional member news alert or a Divisional national journal edition and special election editions (including electronic means).



(c) There is no Divisional Management Committee Members, this may refer to a former position that no longer exist and therefore should be deleted. However, due to similar naming conventions the position can be mistaken for the Divisional Branch Management Committee, which makes sub rule (o) and (c) contradictory.

(d) Delete the requirement for members to apply personally or in writing for a nomination form. Delete the requirement for members to forward their nomination by certified post. This rule should simply say “nominations must be lodged with the Returning Officer before the close of nominations at the address and by the methods specified on the notice of election” – this allows for flexibility for elections conducted by the AEC or another Returning Officer to specify the method and addresses for lodgment (including electronic means). Requirements regarding financiality and/or nominators should be in a separate paragraph.

(m) Whilst this rule is not defective - the Union should note that the list of members entitled to vote must be provided to the Returning Officer the day after the roll close, to enable compliance with Regulation 131 of the *Fair Work (Registered Organisations) Regulation 2009*.

(n) (vi) Delete reference to registered mail and the subsequent sentence regarding the Committee. Replace registered mail with “prepaid post”. Registered mail has the same delivery time as regular mail, see below link, instead the Union should consider extending the ballot period (see (q) below).

(q) The ballot period specified in this rule is not sufficient given current Australia Post delivery schedule (see: <https://auspost.com.au/parcels-mail/sending-in-australia/domestic-letters>). The Union should review what a more suitable period would be.

(r) Delete this rule – the AEC is not able to ensure security at the post office. Alternatively this rule can state that the “Returning Officer collects ... and keep all returned ballot material securely under his/her custody until the commencement of the count”



(s) Delete this rule due to the availability of secure space in the union rooms, or add that “in the case of an election conducted by the AEC, the counting of the ballot shall take place on AEC premises”

(y) This rule need to be simplified. It should simply read “The Returning Office will provide a report which contains... which will be made available to all members within 30/X number of days upon receipt”. For information, the AEC provides a Post-Election Report to the Union as required by s. 197 of the *Fair Work (Registered Organisation) Act 2009*. This simplified sentence would provide flexibility for an election conducted by the AEC or other, whilst maintaining the integrity and transparency of election reporting.

Rule 38 refers to the duties of “Divisional Branch Returning Officer” and “Divisional Returning Officer” without really identifying the difference between them. The terms seem to be interchangeable. It is recommended that the term should just be “Returning Officer”, which provides flexibility for future elections and ballots if the Returning Officer is appointed by the AEC or if appointed by the Union/Other.

Rule 40 – Supreme Governing Body – Divisional Branch Council

Rule 40 contains a number of transitional rules that should be deleted as they are no longer applicable.

(2) (i) (d) There is no definition in the rules that define the boundaries of Cumberland, Northumberland, Camden and Country Zone. It is imperative that the Zones are defined so that candidates can be properly elected from the correct Zone.

(2) (ii) (C) The rule as written at this time will never allow for the full 12 members of Divisional Branch Council to be elected. Note, that there are also 3 sub-groups and not two at part (vii) of the rule.

(2) (ii) (C) (i) The rule states that not less than three months prior to the opening of nominations, the Divisional Branch Council is to determine the number of members of the Divisional Branch Council who reside in 3 areas – the rule does not provide a mechanism for how to make the determination, and no outcome was provided to the AEC for this election.



Rule 42 – Divisional Branch Management Committee

Rule 42 contains a number of transitional rules that should be deleted as they are no longer applicable.

Model Rule reference (if any): N/A

ROLL OF VOTERS

Total number of voters on the Roll:	Various – see attached Divisional Branch Declarations as appropriate.
Number of apparent workplace addresses:	Not applicable
Number of non-current addresses:	Not applicable
Other matters pertaining to the roll of voters:	Nil

IRREGULARITIES

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

ATTACHMENTS

1. NSW Stage 1
2. ACT Stage 1
3. QLD NT Stage 1 Uncontested
4. QLD NT Stage 1 Contested
5. VIC TAS Stage 1 Uncontested
6. VIC TAS Stage 1 Uncontested and Contested
7. WA Stage 1
8. WA Stage 2



Renee Damasena
Returning Officer

8 February 2017