

[2019] FWCD 845

The attached document replaces the document previously issued with the above code on 27 March 2019.

Paragraph 6 has been amended to correct a typographical error.

Rebekah Hoath
Advisor

Dated 27 March 2019



DECISION

Fair Work (Registered Organisations) Act 2009
s.159—Alteration of other rules of organisation

CPSU, the Community and Public Sector Union (R2018/316)

MURRAY FURLONG

MELBOURNE, 27 MARCH 2019

Alteration of other rules of organisation.

[1] On 19 December 2018 the SPSF Group of the CPSU, the Community and Public Sector Union lodged with the Fair Work Commission a notice and declaration setting out particulars of alterations to its rules. Additional information regarding the transaction of alterations was provided on 13 February 2019.

[2] The particulars set out alterations the following Chapter C – SPSF Group Rules:

- 1 – Interpretation
- 3 – Federal Council
- 4 – Federal Executive
- 7 – Branch Council
- 12 – Federal Officers
- 13 – Branch Officers
- Part 3 – Elections and Appointments
- 15 – Elections
- 20 – Eligibility to Nominate
- Part 3C – Collegiate Elections
- 32 – Timetable – Nominations and Voting
- 33 – Eligibility to Nominate
- 34 – Multiple Nominations – Collegiate Elections
- 37 – Roll of Voters
- 42 – Order to Declaration of Branch Elections
- 44 – Casual Vacancies
- 58 – Termination of Membership

[3] The alterations to Rules 1 and 44 modify the title of the office of ‘Delegates to Federal Council’ to be ‘Federal Council Delegates’.

[4] The alterations to Rule 3 include Branch Representatives to Federal Executive as members of the Federal Council. Alterations also clarify that any reference to a delegate within Rule 3 is a Federal Council Delegate.

[5] The alterations to Rule 4 clarify that the Federal Executive is comprised of the Federal Officers and a Federal Executive Representative from each Branch. Alterations further specify that the number of votes exercisable by a voting member of a Branch present at a Federal Executive meeting is the same as the number of votes exercisable by a Federal Council Delegate from that Branch at a Federal Council meeting. Alterations clarify that should the Federal President and all Federal Vice-Presidents be absent from a Federal Executive meeting a Branch Representative to Federal Executive may be elected to chair the meeting.

[6] The alteration to Rule 58 clarifies that the termination of an unfinancial member's membership also terminates any office that was held by that member.

Federal Vice-President

[7] The alteration to Rule 12 read in conjunction with the alterations to Rules 13 and 33 removes the requirement that that a Federal Vice-President shall be elected from each Branch and one be the Federal President. Instead, each Branch Secretary shall ex officio hold the office of Branch Vice-President, unless a Branch Secretary is elected as the Federal Secretary. In the case of the latter, the alterations to Part 3 and 3C clarify that a collegiate election from and by Branch Delegates to Federal Council is required. Alterations to Rule 15 clarify that when a Branch's Secretary is elected to the office of Federal Secretary, then that Branch's Federal Vice-President will be elect by and from Branch Councillors.

[8] Alterations to Rule 33 also clarify that Federal Council Delegates from the Branch concerned are able to accept nominations for the office of Federal Vice-President if an election is required.

Elections

[9] The alteration to Part 3 clarifies that a Branch Representative to Federal Council will now be elected via collegiate voting system by and from Branch Councillors rather than by and from the Branch Delegates to Federal Council.

[10] The alterations to Rule 15 specify that the Branch Representatives to the Federal Council are elected by and from the Branch Council and not by and from Delegates to Federal Council. Alterations also specify that the Federal President is elected from members of the Federal Council, and is no longer restricted to being elected from only Federal Vice-Presidents.

[11] The alteration to Rule 20 inserts a new sub-heading 'Nominees' before the table which specifies how a nominee from each office must be nominated.

[12] The alterations to Rule 32 specify that elections of Federal Council Delegates are to be conducted at the first meeting of the Branch Council. The number of Federal Council Delegates is to be as per Rule 3.2, with one position reserved for the Branch Secretary and one position to be elected as the Branch Representative to the Federal Executive and the remainder to be Delegates to Federal Council. Alterations also remove provisions for elections of Federal Vice-Presidents as each Branch Secretary will hold an office of Federal Vice-President ex officio. Alterations also specify that elections for Federal President shall be conducted after the completion of the election for Federal Council.

[13] The alterations to Rule 33 clarify that nominations for a Branch Representative to Federal Executive can be accepted from the relevant Branch's Delegates to the Branch Council. Alterations also specify that Federal Vice-Presidents and Branch Representatives to the Federal Executive are eligible to nominate for the position of Federal President. The number of nominators required for each position has also been clarified.

[14] The alterations to Rule 34 specify that no person can simultaneously hold more than one of the Federal offices (Federal Secretary, Federal Vice-President, Branch Representative to Federal Executive and Delegate to Federal Council). Alterations also set out a hierarchy of offices and provides a process which applies once someone is elected to a higher office.

[15] The alteration to Rule 37 clarifies each office and the electorate of members that may vote for that office.

[16] The alteration to Rule 42 modifies the rule heading and this rule now relates to Branch and Federal Office elections of the SPSF Group. The alterations also stipulate that the Returning Officer must conduct a colligate election for Federal Council Delegates and the order that Federal Council Delegate offices are to be declared. The alterations also clarify how preferences are to be allocated should a candidate be elected to a higher office but has also been nominated to a lower office.

[17] On the information contained in the notice, I am satisfied the alterations have been made under the rules of the organisation.

[18] In my opinion, the alterations comply with and are not contrary to the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, modern awards and enterprise agreements, and are not otherwise contrary to law. I certify accordingly under subsection 159(1) of the *Fair Work (Registered Organisations) Act 2009*.



DELEGATE OF THE GENERAL MANAGER

HOATH, Rebekah

From: Mark Perica <mark@spsf.asn.au>
Sent: Wednesday, 13 February 2019 3:11 PM
To: HOATH, Rebekah
Cc: Tom Lynch (TAS); Karen Batt (VIC)
Subject: RE: CPSU-SPSF Group - Rule Alteration Application - R2018/316 [SEC=UNCLASSIFIED]

Hi Rebekah,

Nice to talk to you also. I can answer both of those questions;

- **Whether any proxies were used during the meeting of the NOC on 10 December 2018? - as per Chapter A Rule 16(c)**

I am responsible for creating the minutes for the NOC. I took hand written notes of the attendees and apologies for 10 December meeting. I have now examined my notes. The only proxy at that meeting was Troy Wright, the NSW Branch Assistant Secretary for Stewart Little, the NSW Branch Secretary and SPSF Group Vice President.

- **Whether the Federal Secretary provided at least 60 days' notice of the ordinary meeting of the Federal Council to the Federal Councillors and each Branch Secretary? – as per Chapter C Rule 3.8(d)**

The time table for the Federal Executives and Federal Council of the SPSF Group is tabled by the Federal Secretary at the ordinary meeting of the Federal Council in the proceeding year.

As Thomas Lynch declares at paragraph 10 in his 19 December 2018 declaration in support of the application: the date, time and location of the 2018 ordinary meeting of the Federal Council was set at the 2017 ordinary meeting on 7 December 2017. Karen Batt tabled the proposed meeting schedule at the 2017 meeting (as she does every year). All Federal Councilors and each Branch Secretary was then provided with notice of the 2018 meeting. This is compliant with Rule 3.8(d)

Please either give me a ring on 0408 129 965 or e-mail me if you require anything further

Warm Regards

Mark D. Perica
Senior Legal Officer CPSU(SPSF)

From: HOATH, Rebekah <Rebekah.Hoath@fwc.gov.au>
Sent: Wednesday, February 13, 2019 2:27 PM
To: Mark Perica <mark@spsf.asn.au>
Subject: CPSU-SPSF Group - Rule Alteration Application - R2018/316 [SEC=UNCLASSIFIED]

Hi Mark,

Lovely speaking with you today.

As I mentioned I am currently reviewing the CPSU-SPSF Group rule alteration application, R2018/316.

Thank you again for the comprehensive declarations, they have been very helpful.

Please kindly provide the following information in regards to the rule alteration procedure undertaken;

- Whether any proxies were used during the meeting of the NOC? - as per Chapter A Rule 16(c)

- Whether the Federal Secretary provided at least 60 days' notice of the ordinary meeting of the Federal Council to the Federal Councillors and each Branch Secretary? – as per Chapter C Rule 3.8(d)

Thanks Mark

Kind regards,

Rebekah Hoath

Registered Organisations Section

Fair Work Commission

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Fax: 03 9655 0410

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The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander peoples. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

HOATH, Rebekah

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Please kindly provide the following information in regards to the rule alteration procedure undertaken;

- Whether any proxies were used during the meeting of the NOC? - as per Chapter A Rule 16(c)
- Whether the Federal Secretary provided at least 60 days' notice of the ordinary meeting of the Federal Council to the Federal Councillors and each Branch Secretary? – as per Chapter C Rule 3.8(d)

Thanks Mark

Kind regards,

Rebekah Hoath

Registered Organisations Section

Fair Work Commission

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[090V-SPSF: Incorporates alterations of 12/04/2018][R2017/270]
(replaces rulebook dated 23/12/2015 [R2015/253])

**OCTOBER TENDRAFT FOR SUBMISSION TO THE FEDERAL EXECUTIVE, FEDERAL
COUNCIL AND THE NOC**

I CERTIFY under section 161 of the Fair Work (Registered Organisations) Act 2009 that the pages herein numbered 1 to 78 both inclusive contains a true and correct copy of the registered rules of the CPSU, the Community and Public Sector Union; Chapter C - SPSF Group Rules and Schedule B - SPSF Group Rules for the Western Australian Prison Officers' Union (WAPOU) Branch.

DELEGATE OF THE GENERAL MANAGER
FAIR WORK COMMISSION

CPSU, the Community and Public Sector Union
Chapter C - SPSF Group Rules

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Part 1—GOVERNANCE

1. INTERPRETATION

1.1 In this Chapter C

- (a) **Act** means the Fair Work (Registered Organisations) Act 2009, as amended;
- (b) **General Manager** means the General Manager of the Fair Work Commission
- (c) **Regulations** means the Regulations made under the Act;
- (d) singular includes the plural and vice versa;
- (e) Rules or rules are a reference to this Chapter of the Rules.
- (f) **Union** means SPSF Group unless the context indicates otherwise
- (g) **Council** means Federal Council.
- (h) **Executive** means Federal Executive.
- (i) **Associated Body** means:
 - (i) The Public Service Association and Professional Officers Association Amalgamated Union of New South Wales
 - (ii) The Public Service Association of South Australia Incorporated
 - (iii) The Community and Public Sector Union (State Public Services Federation Tasmania) Inc
 - (iv) The Civil Service Association of Western Australia Incorporated
 - (v) The West Australian Prison Officers' Union of Workersor any successor thereto or reconstruction thereof by whatever name called.
- (j) **Branch Councillor** includes both Branch Officers and Delegates to Branch Council.
- (k) **Federal Councillor** includes both Federal Officers and ~~Delegates to Federal Council~~Federal Council Delegates.
- (l) **Federal Executive Member** includes both Federal Officers and Branch Representatives ~~on to~~to Federal Executive.

1.2 Where any of these Rules confer a duty the rule or rules concerned shall also be interpreted as conferring a power to perform the duty upon the officer, person or body specified as having that duty.

1.3 These rules shall be read subject to the provisions of the Act and the Regulations, such that:

- (a) unless the context otherwise requires, every rule or part thereof shall be read as limited by the provisions of the Act and Regulations; and
- (b) any rule or part thereof which cannot be read as so limited shall be deemed to be severable from the balance of the rule or rules.

1.4 Notice requirements

Any notice required under these Rules, unless otherwise specified may be given by—

- (a) hand;
- (b) post or courier;

3. FEDERAL COUNCIL

- (c) email;
- (d) telephone;
- (e) facsimile transmission; or
- (f) other electronic means.

2. GOVERNMENT OF THE SPSF GROUP

2.1 The Rules in this Chapter apply to the SPSF Group. The Rules seek to ensure:

- (a) the democratic control of the Union by its members;
- (b) the effective operation of the Union;
- (c) the protection of Union members exercising their lawful right to organise collectively;

2.2 The SPSF Group shall be governed by financial members by means of:

- (a) a Federal Council;
- (b) a Federal Executive; and
- (c) Branches

3. FEDERAL COUNCIL

3.1 Federal Council Constitution

The Federal Council shall consist of

- Federal Officers; and
- [Branch Representatives to Federal Executive; and](#)
- ~~Federal Council~~ [Delegates](#) elected from each Branch of the SPSF Group.

3.2 Federal Council Delegates

(a) The number of Federal Council ~~delegates~~ [Delegates](#) elected from each Branch will be determined according to the following:

Number of financial members in the Branch as at 31 December of the year preceding the election of Federal Council delegates	Number of delegates to be elected
Less than 10,000	4
10,000 – 14,999	5
15,000 – 19,999	6
20,000 – 24,999	7
25,000 – 29,999	8
30,000 – 34,999	9
35,000 – 39,999	10
40,000 – 44,999	11
45,000 or more	12

- (b) One ~~delegate~~ [Delegate](#) from the New South Wales Branch shall be elected by and from the Branch Council who are members of New South Wales Special Sub-Branch.
- (c) All other ~~delegates~~ [Delegates](#) shall be elected by and from members of the Branch Council, excluding members of a special Sub-Branch,
- (d) Branch rules may provide that ~~delegate~~ [Delegate](#) positions are reserved for particular classes of members.

3. FEDERAL COUNCIL

- (e) If in any election no member is nominated from any of the reserved classes then for the purposes of that election there shall be no reserved positions for that class

3.3 Federal Council - Vote Allocation to Branches/Sub Branches

- (a) Federal Council Delegates from a Branch and Special Sub-Branch shall be entitled to exercise votes only in accordance with this rule.
 - (i) The total number of votes to be exercised by the delegates from a Branch will be one for each 1000 financial members or part thereof of the Branch and sub-Branch combined;
 - (ii) Where a Branch has a sub-Branch, the total number of votes exercised by the Branch and the sub-Branch delegates combined will be the number of votes calculated in **Rule 3.3(a)(i)**
- (b) In this rule "**financial members**" means those persons who at 30 June immediately preceding the Council meeting were:
 - (i) duly admitted to membership according to the rules; and
 - (ii) financial, provided they were not more than 3 months in arrears of any subscriptions, capitations or levies owed to an Associated Body or Branch, and
 - (iii) the Branch or Special sub Branch has remitted national union subscriptions, capitation and levies to the Federal Secretary due under **Rules 51 and 52**.
- (c) The total number of votes to be exercised by the ~~delegates~~ Federal Council Delegates from a Branch or Special Sub-Branch will take effect from 1 October each year subject to **Rule 3.3(g)** below.
- (d) A Branch and Special Sub-Branch Secretary shall provide by 1 September each year an audited certification of the number of financial members of the Branch or Special Sub-Branch as at 30 June in that year.
- (e) The Federal Secretary shall notify all Branch and Special Sub-Branch Secretaries by 30 September each year of the total number of votes to be exercised by Federal Council Delegates from each Branch and Special Sub-Branch from 1 October in that year.
- (f) Where the Federal Secretary has not received an audited certificate from the Branch or Special Sub-Branch by 1 October in accordance with **Rule 3.3(d)** the Federal Council Delegates from that Branch or Special Sub-Branch shall not be entitled to exercise any vote on Federal Council until such time as such a certificate is provided to the Federal Secretary.
- (g) If a new Branch or Special Sub-Branch is created their Federal Council Delegates shall be entitled to exercise a total number of votes determined in accordance with this **Rule 3.3(a)(i)**. The entitlement commences on the day after the Branch has completed actions to establish the Branch or Special Sub-Branch and the appointment or election of Federal Council Delegates ~~to Federal Council.~~
- (h) At any Federal Council meeting the Federal Council Delegates from a Branch or Special Sub-Branch will not be entitled to exercise any voting entitlement unless national subscriptions, capitations and levies owed by the Branch or sub-Branch are paid consistent with **Rule 3152**. Federal Council may determine that the Federal Council Delegates exercise voting rights. Before Federal Council makes a decision the Federal Council Delegates will be entitled to be heard.

3.4 Federal Council - Vote Allocation to each Branch Delegate

3. FEDERAL COUNCIL

- (a) Each ~~Branch-Federal Council~~ Delegate shall be entitled to exercise a number of votes calculated by dividing the total number of votes for the Branch by the number of ~~Federal Council De~~legates, disregarding any fractional remainder.
- (b) Where the ~~Federal Council~~ Delegates from a Branch are entitled to exercise a greater number of votes than the number of votes assigned to those Delegates by this calculation, the additional votes shall be exercisable as follows:
 - (i) Where there has been a ballot conducted for the election of ~~Delegate to~~ Federal Council ~~Delegates~~, the additional votes shall be allocated one at a time to the Delegates in order of their election, beginning with the first elected;
 - (ii) Where insufficient nominations are received to require the conducting of a ballot for ~~Delegate to~~ Federal Council ~~Delegates~~ the additional votes shall be exercised by Delegates from the Branch appointed for that purpose by the Branch Council. Each Delegate shall be allocated one additional vote.
 - (iii) Each Sub-branch ~~Federal Council~~ Delegate shall be entitled to exercise the votes provided for the Sub-branch. The Sub-branch Delegates shall not be regarded as Branch Delegates and the Sub-branch votes shall not be regarded as Branch votes for the purpose of allocating votes under **Rule 3.4(a) and (b)**.
- (c) A Federal Officer who is not re-elected as a ~~delegate to~~ Federal Council ~~Delegate~~ shall be a non-voting member of the Council. They shall have all the rights and duties of a member of the Council except
 - (i) that they shall have no right to vote, other than at meetings of Federal Executive which occur prior to the expiration of their terms, or
 - (ii) nominate or be nominated as a Federal Officer or member of the Federal Executive.

3.5 Federal Council – Federal Secretary Vote Allocation

The Federal Secretary, if not a ~~delegate to~~ Federal Council ~~Delegate~~, shall be a voting member of the Council exercising one vote and shall have all the rights and duties of a member of the Council.

3.6 Federal Council - Quorum

At every meeting of Federal Council a quorum shall be a sufficient number of ~~delegates~~ ~~Federal Council Delegates~~ to cast a majority of the available votes. Attendance at the meeting by any means prescribed by the rules (eg proxy or electronic means) will count for the purposes of a quorum.

3.7 Federal Council Powers

- (a) The affairs of the Group shall be governed by a Federal Council which subject to **Rule 3.9(f)** is the supreme governing authority and Committee of Management of the Group
- (b) Federal Council shall have power to do all things necessary to achieve the objects of the Union and shall exercise all of the powers of registered organisations including but not limited to the following:
 - (i) Recommend to the National Officers Committee (NOC), or agree to or reject NOC recommendations on the making, amendment and rescission of any of the rules of the Group or of the Union;
 - (ii) Determine the amount of payment of capitation dues or subscriptions payable by Branches to the Federal Fund.

- (iii) Determine the amount of national union subscriptions payable by candidates for membership and members of the Group;
- (iv) Impose per capita levies on Branches and fix the amount of other contributions from Branches for the purpose of maintaining the Federal Fund;
- (v) Authorise the disbursement of moneys from the Federal Fund for any purpose within the objects of the Union;
- (vi) Approve the affiliation of a Branch or sub-Branch to a political party, subject to **Rule 6.1(j)**;
- (vii) Approve the affiliation of the Group to a political party, provided that the specific proposal for affiliation has been given prior approval by a majority vote in a postal ballot of all financial members of the Group.
- (viii) Appoint or remove a Federal Returning Officer. The Federal Returning Officer must not be the holder of any other office or be an employee of the Union.
- (ix) Appoint or remove an auditor qualified to act in accordance with the Act to conduct the yearly or other more frequent audit of the Federal Fund;
- (x) Set the salaries, conditions and work location of the Federal Officers of the SPSF Group
- (xi) Authorise the Federal Executive to employ and terminate the employment of staff of the Group;
- (xii) Authorise any step or proceeding before a relevant tribunal or Court necessary to protect or promote the interests of the Union or its members.
- (xiii) Dismiss from office any person elected to an office within the Group who has been found guilty or no longer eligible in accordance with the rules of the Group under **Rule 62**
- (xiv) Rescind or vary any resolution made by the Federal Executive pursuant to **Rule 4.2**;
- (xv) Do all things necessary or convenient for the exercise of its powers.
- (xvi) For the purposes of managing the Federal fund -
 - Buy, sell, rent, lease, sublet or otherwise deal with any property, real or personal,
 - Enter into any contract,
 - Borrow money and mortgage or charge any of the real or personal property of the Group,
 - Establish any company or trust to hold, or assign on trust, any real or personal property of the Federal Fund

3.8 Federal Council- Ordinary Meetings

- (a) Ordinary meetings of the Federal Council will normally be held annually. Meetings may be conducted by
 - (i) personal attendance;
 - (ii) by electronic means such as teleconferencing or videoconferencing; or
 - (iii) by a combination of personal attendance and electronic means.
- (b) The Federal Council will determine the date, time, and location of a meeting, and the means by which a meeting will be conducted.

3. FEDERAL COUNCIL

- (c) Where the arrangements for an ordinary Federal Council meeting have not been determined by the Council then either the Federal Executive or the Federal Secretary and the Federal President acting together may determine the time, location and the means by which the next Federal Council meeting will be conducted.
- (d) The Federal Secretary must provide at least sixty (60) days' notice of any ordinary meeting of Federal Council to the Federal Councillors and each Branch Secretary.

3.9 Federal Council – Business of ordinary meetings

(a) Chair

The Federal President will chair meetings of Federal Council.

- (i) In her/his absence the most Senior Federal Vice-President in attendance will chair, or
- (ii) In the absence of the President and all the Federal Vice-Presidents, a ~~delegate~~ Delegate elected by the ~~D~~delegates in attendance will chair.

(b) Federal Council shall determine the order of business.

(c) Agenda items

- (i) Federal Council, Federal Executive, a Federal Officer or any Branch may require an item be placed on the agenda for a Federal Council meeting.
- (ii) Items for the agenda shall be given to the Federal Secretary at least forty two (42) days prior to the date of the meeting.
- (iii) The Federal Secretary shall provide each Branch Secretary and Federal Councillor with at least thirty (30) days notice of the agenda.
- (iv) A Federal Council member may request to add any matter to the agenda. A resolution carried by a majority of the votes exercisable at the meeting is required to add the item.
- (v) The notice requirements of this sub-rule are directory and not mandatory.

(d) Nothing in this rule prevents:

- (i) Federal Council placing an item on the agenda of a future meeting of Federal Council;
- (ii) Federal Executive submitting an item to a ballot under **Rule 3.11**; or
- (iii) An item being referred to Branches for consideration.

(e) Nothing in this rule shall preclude the addition, amendment, or rescission of any rule by out of session ballot in accordance with the requirements of **Rule 3.11**.

(f) Postal ballot on any decision

Any three branches acting together or a combination of branches which include between them a majority of financial members of the Group may within ninety (90) days of the meeting of the Federal Council or Federal Executive request a postal ballot of the whole of the financial membership of the Group on any decision of Federal Council or Federal Executive

- (i) The request must be supported by resolution of the respective Branch Councils; and
- (ii) The ballot shall be conducted by the Federal Returning Officer at the expense of all the Branches. Each Branch shall within two weeks of being requested

3. FEDERAL COUNCIL

pay the expenses of the postal ballot estimated by the Returning Officer on a proportionate basis. The result of any such ballot shall be binding on the Federal Council or Federal Executive.

(g) Minutes

The Federal Secretary shall forward to each Branch and to each member of Federal Council a copy of the draft minutes of that meeting within thirty (30) days of the date of the meeting.

3.10 Federal Council- Special Meetings

(a) Special meetings of Federal Council may be convened by:

- (i)** Resolution of Federal Executive; or by
- (ii)** The Federal President and Federal Secretary acting together.

(b) Branches may request the Federal Secretary to convene a special meeting of Federal Council by:

- (i)** Resolution passed by three (3) Branch Councils; or by
- (ii)** Resolution passed by a combination of Branch Councils where the Federal Council ~~delegates~~Delegates of those branches constitute a majority of the financial members of the Group.

(c) The resolutions in **3.10(b)(i)** or **(ii)** must detail the business to be transacted by the special meeting of Federal Council.

(d) The Federal Secretary will provide all members of Federal Council reasonable notice of the special meeting of Federal Council specifying the business to be transacted and will convene a special meeting of Federal Council for a date not later than thirty (30) days from the date on which the request was made.

3.11 Federal Council – Out Of Session Decisions

(a) The purpose of this rule is to provide a means of obtaining prompt decisions.

(b) Any decision Federal Council has the power to make at a meeting may be made by ballot in the manner set out in this rule.

(c) The Federal Secretary shall submit any ballot under this rule requested by:

- (i)** Federal Council;
- (ii)** Federal Executive;
- (iii)** the Federal President or Federal Secretary; or
- (iv)** any two Branches.

(d) The ballot will be conducted of all members of the Federal Council.

- (i)** Federal Council members must be given in writing the question which is the subject of the ballot; and notice of the period required to return the ballot.
- (ii)** The voting period will be not less than 14 days.

(e) Notice, and return of the ballot, may be given by—

- (i)** hand;
- (ii)** post or courier;
- (iii)** email;
- (iv)** facsimile transmission; or

4. FEDERAL EXECUTIVE

- (v) other electronic means.
 - (f) A ballot under this rule shall be determined in the same manner as applies to a resolution at meetings of Federal Council, that is, a simple majority of votes exercised. Votes will be allocated in accordance with **Rule 3.4**.
 - (g) A member of Federal Council at the time the ballot is forwarded may vote in that ballot.
 - (h) If a person ceases to be a member of Federal Council after a ballot commences but before they cast their vote, the vote shall be reallocated to the remaining ~~delegates to~~ Federal Council Delegates from their Branch.
- (i) A decision under this rule is carried if supported by a majority of the total votes exercised; and:
- (i) for a ballot conducted as a result of a resolution of Federal Council or Federal Executive, no less than 50 percent of the total votes exercisable by Federal Councillors have been exercised; or
 - (ii) in any other case, no less than 75 percent of the total votes exercisable by Federal Councillors have been exercised.
- (j) If the majority required in **sub rule 3.11(i)** is reached before the time appointed for close of a ballot, the decision may be declared carried at that date.

4. FEDERAL EXECUTIVE

4.1 Federal Executive - Constitution

- (a) The Federal Executive shall consist of the Federal Officers and one Branch Representative to Federal Executive from each Branch.
- (b) At every meeting of the Federal Executive a quorum shall be a number of Federal Executive members necessary to exercise a majority of the votes entitled to be cast. Attendance at the meeting by any means prescribed by the rules (eg proxy or electronic means) will count for the purposes of a quorum.
- (c) The voting members present from each Branch, shall be entitled to exercise the same number of votes as the ~~Branch Delegates to~~ Federal Council Delegates from that Branch are entitled to exercise at a Federal Council Meeting.
- (d) If the majority of voting members of the Executive from a Branch who are present do not agree on the manner in which the votes shall be exercised the votes shall be divided equally between them and for the purposes of this sub-rule fractions of a vote may be cast.
- (e) The Federal Secretary, if not a voting member from a Branch, shall have all the rights and duties of a member of the Executive except the right to vote.
- (f) At any Federal Executive meeting the delegates from a Branch or Special Sub-Branch will not be entitled to exercise any voting entitlement unless national subscriptions, capitations and levies owed by the Branch or sub-Branch are paid consistent with **Rule 52**.

4.2 Federal Executive Powers

- (a) The Federal Executive is the Committee of Management of the Group between meetings of Federal Council.
- (b) The Federal Executive, subject to any direction or resolution of Federal Council, will have all the powers of the Federal Council with the exception of:

4. FEDERAL EXECUTIVE

- (i) the powers conferred on Federal Council by **Rule 3.7 (b)(i),(ii),(iii), (iv) and (vi)**;
- (ii) the power to hear appeals; or
- (iii) any power expressly reserved to itself by decision of Federal Council.

Provided that, any resolution of Federal Executive may be rescinded or varied by the Federal Council.

- (c) Any member of the Federal Executive may request at a meeting that any question before the Executive be referred to Federal Council.
 - (i) Any such request will be put to a vote.
 - (ii) Where a question is referred to Federal Council as a result of the passing of such a resolution the Federal Executive shall not determine the question.

4.3 Federal Executive Meetings

- (a) Federal Executive meetings may be conducted by
 - (i) personal attendance;
 - (ii) by electronic means such as teleconferencing or videoconferencing; or
 - (iii) by a combination of personal attendance and electronic means.
- (b) Federal Executive shall meet at least once each quarter.
- (c) Meetings of Federal Executive may be called by:
 - (i) Federal Executive;
 - (ii) The Federal Secretary in consultation with the Federal President; or by
 - (iii) Resolution passed by two or more Branches.
- (d) The Federal Secretary in consultation with the Federal President will determine the date, time, and location of a meeting, and the means by which a meeting will be conducted.
- (e) Where a meeting has been requested under **Rule 4.3(c)(iii)**, the Federal Secretary will schedule the meeting within 21 days of receipt of the resolutions.
- (f) Unless urgent circumstances prevail, the Federal Secretary will provide members of Federal Executive at least 7 days notice of a meeting of Federal Executive specifying the business to be transacted.
- (g) The Federal Secretary after consultation with the Federal President may call a special meeting provided that such meeting shall not be held before a meeting which has been previously requested in accordance with **Rule 4.3(c)(iii)**.

4.4 Federal Executive Business

- (a) Meetings of Federal Executive will be chaired by the Federal President.
 - (i) In their absence, the most Senior Federal Vice-President in attendance will chair or
 - (ii) In the absence of the President and all the Federal Vice-Presidents, a delegate Branch Representative to Federal Executive elected by the delegates-Branch Representatives to Federal Executive in attendance will chair.
- (b) Federal Executive shall decide its own order of business.
- (c) Items may be placed on the agenda of any meeting of Federal Executive by Federal Council, Federal Executive, Federal Officers or any Branch.

4. FEDERAL EXECUTIVE

- (d) The Federal Secretary shall prepare an agenda for the meeting.
- (e) Notice of the meeting and agenda may be given by—
 - (i) hand;
 - (ii) post or courier;
 - (iii) email;
 - (iv) telephone;
 - (v) facsimile transmission; or
 - (vi) other electronic means.
- (f) Failure to provide an agenda will not invalidate or otherwise affect a vote or meeting of the Federal Executive.
- (g) The Federal Secretary shall give each Branch Secretary and member of Federal Executive reasonable notice of agenda items.

4.5 Federal Executive – Out Of Session Decisions

- (a) The purpose of this rule is to provide a means of obtaining prompt decisions.
- (b) Any decision Federal Executive has the power to make at a meeting may be made by ballot in the manner set out in this rule.
- (c) The Federal Secretary shall submit any ballot under this rule requested by:
 - (i) Federal Council;
 - (ii) Federal Executive;
 - (iii) the Federal President or Federal Secretary; or
 - (iv) any two Branches.
- (d) The ballot will be conducted of all members of the Federal Executive.
 - (i) Federal Executive members must be given in writing the question which is the subject of the ballot; and notice of the period required to return the ballot.
 - (ii) The voting period will be not less than 7 days.
- (e) Notice, and return of the ballot, may be given by—
 - (i) hand;
 - (ii) post or courier;
 - (iii) email;
 - (iv) facsimile transmission; or
 - (v) other electronic means.
- (f) A ballot under this rule shall be determined in the same manner as applies to a resolution at meetings of Federal Executive, that is, a simple majority of votes exercised. Votes will be allocated in accordance with **Rule 3.4**.
- (g) A member of Federal Executive at the time the ballot is forwarded may cast their vote in that ballot.
- (h) If a person ceases to be a member of Federal Executive after a ballot commences but before they cast their vote, the vote shall be reallocated to the remaining delegates to Federal Executive from their Branch.

6. BRANCHES

5. PROXY VOTING

5.1 Federal Council and Federal Executive

- (a) A member of the Federal Council, or Federal Executive who is unable to attend all or part of a meeting may appoint a proxy.
- (b) A proxy must be a financial member of the Group.
- (c) A proxy has all the powers of the person they represent, except the right to participate in a ballot for Federal Officers under **Part 3 – Elections and appointments**
- (d) The proxy must act in accordance with any direction issued by the person they represent.
- (e) The person appointing a proxy must advise their Branch Secretary in writing of the appointment.
- (f) A proxy is entitled to exercise votes allocated to them and votes allocated to the person they represent.
- (g) At any meeting, a person shall not act as a proxy for more than one person.
- (h) If a member of the Federal Council or Federal Executive will be absent from a meeting and has not appointed a proxy consistent with these rules, the Branch Council of that person may appoint any financial member of the Group to act as their proxy.

5.2 Branch Council

- (a) A member of the Branch Council who is unable to attend all or part of a meeting may appoint a proxy.
- (b) A proxy must be a financial member of the Branch.
- (c) A proxy has all the powers of the person they represent, except the right to participate in a ballot for Branch Officers.
- (d) The proxy must act in accordance with any direction issued by the person they represent.
- (e) The person appointing a proxy must advise the Branch Secretary in writing of the appointment.
- (f) A proxy is entitled to exercise votes allocated to them and votes allocated to the person they represent.
- (g) At any meeting, a person shall not act as a proxy for more than one person.
- (h) A proxy may not be appointed for a meeting of the Branch Executive.

6. BRANCHES

6.1 Branches

- (a) The Federal Council may form a Branch or Branches in any State.
- (b) Each Branch shall at all times conform to the rules of the Union.
- (c) Each Branch shall have full autonomy in matters affecting members of the Branch.
- (d) An Associated Body may request the participation of the Group in any matter within a particular state including proceedings before any State tribunal.
- (e) Branch rules are void to the extent of any inconsistency with a rule under Chapter C.

7. BRANCH COUNCIL

- (f) Each Branch shall have power to establish reform or dissolve any body under its rules, and to determine or vary their powers and duties.
- (g) If the Federal Council or Federal Executive considers the rules of a Branch do not comply with the requirements of the Act, Federal Council or Federal Executive may call on the Branch to bring its rules into conformity with the Act within a specified time.
- (h) If the rules of the Branch have not been altered within the time specified, Federal Council or Federal Executive may make such alterations to the rules of the Branch to bring them into conformity with the Act.
- (i) A Branch will not affiliate with, send delegates to, or be represented on any national or international organisation, body or meeting without the prior consent of Federal Council or Federal Executive.
- (j) A Branch or Sub-Branch shall not affiliate with a political party unless:
 - (i) prior consent of the Federal Council has been given; and
 - (ii) prior approval to the specific proposal for affiliation has been given by majority vote in a ballot of all financial members of the Branch or sub-Branch.

7. BRANCH COUNCIL

7.1 Branch Council - Constitution

- (a) Each Branch Council shall consist of
 - (i) The Branch Officers and Delegates to the Branch Council.
 - (ii) Branch rules may specify the number of Delegates to the Branch Council or a Branch Representation Quota.
 - (iii) If the Branch Rules do not provide for either the number of delegates to the Branch Council or a Branch Representation Quota the quota shall be 500 branch members or part of it.
- (b) **Branch electorates**
 - (i) Branch rules may provide that the financial members of the Branch shall be allocated to one or more electorates for the purpose of electing the Delegates to the Branch Council.
 - (ii) Every financial member shall be included in only one electorate.
 - (iii) The rules of a Branch may define, or provide the means of defining, the electorates, including minimum size. An electorate shall not be established with less than the minimum size.
 - (iv) The rules of the Branch shall provide a means of reviewing or redefining electorates if they fall below the minimum size.
- (c) **Reserved positions – Women and Men**

Branch rules may provide that a number of positions of Delegate to Branch Council shall be reserved for women and a number reserved for men in each electorate.
- (d) **Branch financial membership determination**
 - (i) In this rule a reference to "financial members" is a reference to financial members as at 31st December in the year preceding an election.
 - (ii) A Branch Secretary may as soon as practicable after the 31st December in each year but no later than the 28th February of the next year provide to a

meeting of the Branch Council a report on membership as at the 31st December of that year showing the number of financial members in the Branch in each electorate and in each class of members relevant to determining any matter under this rule. If such report is provided it shall be conclusive of the number of financial members and their disposition.

- (iii) The disposition of financial members into a class of members relevant to determining any matter under this rule shall be determined by the Branch Secretary by reference to the membership and subscription records held by the Branch or Associated Body as the case may be. The membership and subscription records are deemed to be conclusive as to the disposition of financial members. Where a member may be in more than one class of members relevant to determining any matter under this rule the Branch Secretary shall determine the disposition of the member.
- (iv) Any report provided under this subrule shall be forwarded by the Branch Secretary to the Federal Secretary.

7.2 Powers of Branch Council

- (a) Branch Council shall have power to control and manage the business and affairs of the Group in the State in which the Branch is established.
- (b) Those powers are subject to:
 - (i) the rules; and
 - (ii) any direction of Federal Council or Federal Executive .
- (c) Branch Council shall have power to:
 - (i) Authorise any action necessary to advance the interests of Branch members. Such actions shall only have application to members of the Branch.
 - (ii) Authorise any step or proceeding before a relevant tribunal or Court necessary to protect or promote the interests of the Union or its members.
 - (iii) Make, amend, and rescind rules for the regulation and government of the Branch;
 - (iv) Enrol in the Group any person whose employer is located in the State in which the Branch is established, who is qualified for membership of the Group, and who is qualified for membership of the Branch in the terms of the Federal Council decision establishing the Branch;
 - (v) Refuse admission to any person in accordance with the provisions of the Act.
 - (vi) Determine entrance fees and Branch union subscriptions payable by candidates for membership and members of the Group attached to the Branch. At no time shall Branch union subscriptions be less than the national union subscriptions or capitation dues;
 - (vii) Impose levies on members;
 - (viii) Remit entrance fees, subscriptions, levies fixed or imposed under this Rule;
 - (ix) Authorise the disbursement of moneys from the Branch Fund for any purpose within the objects of the Union;
 - (x) Appoint or remove a Branch Returning Officer qualified to act in accordance with the Act;
 - (xi) Appoint or remove a Branch Auditor qualified to act in accordance with the Act;

- (xii) Determine allowances or honoraria payable to Branch officers.
- (xiii) Set the salaries, conditions, work and location of the Branch Officers
- (xiv) Authorise a Branch Officer or Officers to employ and terminate the employment of staff of the Branch;
- (xv) Direct a delegate to Federal Council to vote or act in a manner which is consistent with a direction by the Branch
- (xvi) Subject to **Rule 62** dismiss from office any person elected to an office within the Branch who has been found guilty in accordance with the rules of the Group of
 - misappropriation of the funds of the Union;
 - a substantial breach of the rules of the Union;
 - gross misbehaviour or gross neglect of duty; or
 - who has ceased according to the rules of the Group to be eligible to hold the office.Any such person shall have a right of appeal to the Federal Council;
- (xvii) Do all things necessary or convenient for the exercise of its powers.
- (xviii) For the purposes of managing the Branch fund -
 - Buy, sell, rent, lease, sublet or otherwise deal with any property, real or personal,
 - Enter into any contract,
 - Borrow money and mortgage or charge any of the real or personal property of the Branch,
 - Establish any company or trust to hold, or assign on trust, any real or personal property of the Branch Fund

7.3 Branch Council Meetings

- (a) Branch Council will meet at least quarterly
- (b) Meetings will be convened by the Branch President or in her/his absence the Branch Vice-President or in their absence the Branch Secretary.
- (c) Meetings may be conducted by
 - (i) personal attendance;
 - (ii) by electronic means such as teleconferencing or videoconferencing; or
 - (iii) by a combination of personal attendance and electronic means.
- (d) The Branch President and Branch Secretary acting together shall have power to convene special meetings of Branch Council, determine when, where and for what purpose such meeting shall take place.
- (e) Reasonable notice of all meetings will be given to each member of Branch Council.
- (f) The quorum for every Branch Council meeting shall be a majority of those entitled to attend and vote. Attendance at the meeting by any means prescribed by the rules (eg proxy or electronic means) will count for the purposes of a quorum. Branch rules may provide for a different quorum.

7.4 Branch Council – Out Of Session Decisions

- (a) The purpose of this rule is to provide a means of obtaining prompt decisions.

8. BRANCH EXECUTIVE

- (b) Any decision Branch Council has the power to make at a meeting may be made by ballot in the manner set out in this rule.
- (c) The Branch Secretary will submit any ballot under this rule requested by any member of Branch Council.
- (d) The ballot will be conducted of all members of the Branch Council.
 - (i) Branch ~~council~~ Council members must be given in writing the question which is the subject of the ballot; and notice of the period required to return the ballot.
 - (ii) The voting period will be not less than 7 days.
- (e) Notice, and return of the ballot, may be given by—
 - (i) hand;
 - (ii) post or courier;
 - (iii) email;
 - (iv) facsimile transmission; or
 - (v) other electronic means.
- (f) A ballot under this rule shall be determined in the same manner as applies to resolutions at meetings of Branch Council, that is, a simple majority of votes exercised.
- (g) A member of Branch Council at the time the ballot is forwarded may exercise their vote in that ballot.
- (h) If the majority required in **sub rule 7.4(f)** is reached before the time appointed for close of a ballot, the decision may be declared carried at that date.

7.5 Business of Branch Council

- (a) Branch Council shall determine its own order of business, except for a special meeting,
- (b) Any item, except an item within the scope of **Rule 7.2(c)(iii)**, may be placed on the agenda of any meeting of Branch Council.
- (c) Any item within the scope of **Rule 7.2(c)(iii)** may be placed on the agenda of a meeting of Branch Council by resolution of Branch Executive or Branch Council. In this case the Branch Secretary must provide members of Branch Council at least 14 days notice of the meeting specifying the business to be transacted.
- (d) Unless urgent circumstances prevail, the Branch Secretary will provide members of Branch Council at least 7 days notice of a meeting of Branch Council specifying the business to be transacted.
- (e) If the Branch Executive or Branch Council recommends Branch rule changes notice shall be given to the Branch Secretary at least twenty one (21) days prior to the meeting of Branch Council.

8. BRANCH EXECUTIVE

8.1 Branch Executive - Constitution

- (a) The Branch Executive shall consist of the Branch Officers.
- (b) At every meeting of the Branch Executive the quorum necessary for the transaction of the business of the Branch Executive shall be a majority of those entitled to

9. ACTU DELEGATES

attend and vote or such other number or proportion as the rules of the Branch may provide.

- (c) Attendance at the meeting by any means prescribed by the rules (eg proxy or electronic means) will count for the purposes of a quorum.

8.2 Branch Executive - Powers

- (a) The Branch Executive is the Committee of Management of the Branch between meetings of Branch Council and pending the first meeting of Branch Council.
- (b) Branch Executive shall have all powers except the power to make, amend or rescind rules or any power expressly reserved to itself by resolution of Branch Council.
- (c) Branch Executive may make out of session decisions in accordance with **Rule 7.4** with the necessary modifications.

8.3 Branch Executive - Meetings

- (a) Branch Executive shall meet at least quarterly between meetings of Branch Council and whenever required by the Branch President. The Branch President after consultation with the Branch Secretary, will determine the date, time, and location of a meeting, and the means by which a meeting will be conducted.
- (b) Meetings may be conducted by
 - (i) personal attendance;
 - (ii) by electronic means such as teleconferencing or videoconferencing; or
 - (iii) by a combination of personal attendance and electronic means.
- (c) The business of a meeting of the Branch Executive shall be such items as are submitted for the consideration of the Branch Executive to the Branch Secretary at least twenty-four (24) hours prior to the meeting of Branch Executive
- (d) The Branch Secretary will provide all members of Branch Executive with reasonable notice of meetings of Branch Executive specifying the business to be transacted

9. ACTU DELEGATES

- (a) A Branch shall be entitled to appoint delegates to an ACTU Congress or Special Conference provided they have remitted all monies due in accordance with **Rule 31**,

- (b) The following formula will apply:

$$\text{No. of delegates} = \frac{a}{b} \times c$$

- a Number of Branch financial members as at 31 December in the year preceding Congress/Special Conference
- b Total number of Group financial members as at 31 December in the same year as in "a".
- c Number of delegates allocated to the Group by the ACTU less one position which shall be allocated to the Federal Secretary

- (c) Any fractional remainder shall at first be disregarded. If any positions remain to be allocated they shall be allocated to Branches in order of the size of the fractional remainders, beginning with the largest.

10. INDUSTRY AND ADVISORY BODIES

- (d) Branch ACTU delegates shall be determined by the Branch Council and the names must be notified to the Federal Secretary
- (e) The Group's delegation will be bound by decisions of:
 - (i) The Federal Council; or
 - (ii) Meetings of delegates to the ACTU Congress/Special Conference in respect of matters before such Congress/Special Conference.
- (f) Each Branch may forward to the Federal Secretary items for submission to the ACTU Congress/Special Conference, subject to these rules and Union policy. The Federal Secretary shall forward such items in accordance with the requirements of the ACTU.

10. INDUSTRY AND ADVISORY BODIES

- 10.1** Federal Council or Federal Executive may establish an Industry or Advisory Body for any class or group of members.
 - (a) An Industry or Advisory Body shall be constituted by at least one delegate from each of the Branches which has members in the specified class or group.
 - (b) Branch delegates to an Industry or Advisory Body shall be determined from time to time by the Branch Council.
- 10.2** Meetings will be convened by the Federal Secretary as required.
- 10.3** Meetings of an Industry or Advisory Body may be conducted by
 - (a) personal attendance;
 - (b) by electronic means such as teleconferencing or videoconferencing; or
 - (c) by a combination of personal attendance and electronic means.
- 10.4** The Federal Secretary and the Federal President or their nominees shall be ex officio members of any Industry or Advisory Body. The activities of an Industry and Advisory Body will conform to Union Rules and policy.
- 10.5** An Industry or Advisory Body shall exercise such functions delegated to it by the Federal Council or the Federal Executive in a resolution concerning matters relating to the particular class or group of members for which the Body has been established.
- 10.6** The duties of Industry and Advisory Body Delegates are:-
 - (a) To represent their Branch on the Industry or Advisory Body; and
 - (b) To report to the Branch and to the members they represent, the business and decisions of the Industry or Advisory Body meetings.
- 10.7** Following each meeting, an Industry or Advisory Body shall submit a written report on decisions and recommendations made and action taken on any matter to the Federal Secretary for circulation to Federal Executive, Federal Council and Branch Secretaries.
- 10.8** The Federal Executive shall provide such financial and other resources for the meetings and activities of each Industry or Advisory Body as it deems necessary and reasonable.
- 10.9** Industry and Advisory Bodies shall appoint their own Chair and Secretary.
- 10.10** In any vote taken by an Industry or Advisory Body, each Branch's delegates shall have a total vote equal to the number of financial members in the specified class or group in the Branch they represent as at 31 December in the year preceding.

Part 2—OPERATIONS

11. REGISTERED OFFICE

- 11.1** The office of the Group shall be at the address determined by the Federal Council.
- 11.2** The office of each Branch shall be at the address determined by the Branch Council.

12. FEDERAL OFFICERS

12.1 Composition

(a) The Federal Officers are:

- (i) Federal President,
- (ii) Federal Vice- Presidents, and
- (iii) Federal Secretary.

~~(b) A Federal Vice President shall be elected from each Branch; one of whom shall be the Federal President.~~

12.2 Federal Secretary Duties

- (a) The Federal Secretary will be the Executive Officer of the SPSF Group and, subject to the direction of the Federal Council and the Federal Executive, will be responsible for the effective administration and operation of the SPSF Group. The Federal Secretary will do all things necessary to further and protect the interests of the SPSF Group and its members.
- (b) Without limiting the generality of **Rule 12.2(a)**, the Federal Secretary shall:
- (i) ensure that decisions of Federal Council are implemented;
 - (ii) Attend all meetings of Federal Council and Federal Executive and any committee of the Group;
 - (iii) develop the strategic plan to achieve the directions and objectives of the Union;
 - (iv) prepare a budget each year for the operations of the Union consistent with the strategic plan;
 - (v) prepare an agenda of the business to be transacted at each meeting;
 - (vi) prepare, circulate and present minutes of the business transacted at each meeting;
 - (vii) ensure that a record of the proceedings and resolutions of any meeting of the Federal Council and Federal Executive are kept in minute books
 - (viii) direct such staff as are necessary to assist the SPSF Group conduct its affairs, and fix the salary, remuneration, duties and delegated responsibilities of such staff ;
 - (ix) sue or accept service of process on behalf of and in the name of the Group;
 - (x) Keep proper books of account of the Group and see to the preparation of an annual balance sheet and statement of receipts and payments
 - (xi) Ensure that all matters required of a Registered Organisation under the Act are dealt with in the manner prescribed in the Act and Regulations;
- (c) The Federal Secretary may delegate any power, authority, duty or function under these rules to any officer or employee subject to **Rule 65**

13. BRANCH OFFICERS

- (d) The Federal Secretary may execute documents not required to be under seal of the Union on behalf of the Group. A Federal Officer, whose signature shall be attested by one other Federal Officer, may also execute such documents.
- (e) The Federal Secretary shall be an ex officio member of any Federal committee of the Group.

12.3 Duties of Federal President

- (a) The Federal President shall:
 - (i) Preside at and conduct all meetings of Federal Council and Federal Executive;
 - (ii) In consultation with the Federal Secretary convene meetings of Federal Council and Federal Executive;
 - (iii) Exercise a deliberative vote only if he or she so desires at all meetings of Federal Council and Federal Executive;
 - (iv) Ensure as far as possible that the rules of the Union are performed and observed by officers and members of the Group;
 - (v) Request and receive an explanation from any officer or member of the Group in any case where the Federal President believes that the rules of the Union may not have been performed or observed and report thereon to Federal Executive and Federal Council;
 - (vi) Generally act to safeguard the reputation, unity and property of the Union.
- (b) The Federal President shall be an ex officio member of any Federal committee of the Group.

12.4 Duties of Federal Vice-Presidents

The most senior Federal Vice-President, as determined by **Rule 32.4**, shall exercise all of the rights and perform all of the duties of the Federal President

- (a) in their absence, or
- (b) on request of the Federal President

13. BRANCH OFFICERS

13.1 Composition

The Branch Officers are:

- (a) Branch President
- (b) Branch Vice President(s)
- (c) Branch Secretary
- (d) Branch Assistant Secretary(s)
- (e) Branch Treasurer (if applicable)
- (f) One or more Executive Councillors (if applicable)

13.2 Branch rules may provide for one or more Executive Councillors to represent a particular class or group of members.

13.3 Branch President Duties

The Branch President shall:

- (a) Preside at all meetings of Branch Council and Branch Executive;

13. BRANCH OFFICERS

- (b) Determine the date, time and place of meetings of Branch Council and Branch Executive in consultation with the Branch Secretary,
- (c) Exercise a deliberative vote at all meetings of Branch Council and Branch Executive if he or she desires,
- (d) Ensure as far as possible that the rules of the Branch are performed and observed by officers and members of the Branch;
- (e) Request and receive an explanation from any officer or member of the Branch in any case where the Branch President believes that the rules of the Branch have not been performed or observed and report thereon to Branch Executive and Branch Council;
- (f) Generally act to safeguard the reputation, unity, autonomy and property of the Branch.
- (g) The Branch President shall be an ex officio member of any committee of the Branch.

13.4 Branch Vice-President Duties

- (a) The Branch Vice-President(s) shall exercise all of the rights and perform all of the duties of the Branch President:
 - (i) in their absence, or
 - (ii) on request of the Branch President.
- (b) Branch rules may provide for the determination of seniority of Branch Vice Presidents and allocation of duties.

13.5 Branch Secretary Duties

- (a) The Branch Secretary will be the Executive Officer of the Branch and, subject to the direction of the Branch Council and Branch Executive, will be responsible for the effective administration and operation of the Branch. The Branch Secretary will do all things necessary to further and protect the interests of the Branch and its members.
- (b) Without limiting the generality of **Rule 13.5(a)**, the Branch Secretary will:
 - (i) ensure that decisions of Branch Council are implemented;
 - (ii) Attend all meetings of Branch Council and Branch Executive and any committee of the Branch;
 - (iii) Prepare an agenda of the business to be transacted at each such meeting;
 - (iv) Prepare, circulate and present minutes of the business transacted at each such meeting;
 - (v) Ensure that a record of the proceedings and resolutions of any meeting of the Branch Council and Branch Executive are kept in minute books
 - (vi) Direct such staff as are necessary to assist the Branch conduct its affairs, and fix the salary, remuneration, duties and delegated responsibilities of such staff; and
 - (vii) Sue or accept service of process on behalf of and in the name of the Branch;
 - (viii) Keep proper books of account of the Branch and see to the preparation of an annual balance sheet and statement of receipts and payments
 - (ix) Ensure that all matters required of a Registered Organisation under the Act are dealt with in the manner prescribed in the Act and Regulations;

13. BRANCH OFFICERS

- (c) The Branch Secretary may delegate any power, authority, duty or function under these rules to any officer or employee subject to **Rule 65**.
- (d) The Branch Secretary shall be an ex officio member of any Branch committee.
- (e) The Branch Secretary will hold the office of Branch Federal Vice-President ex officio. If the Branch Secretary also holds the office of Federal Secretary **Rule 32.3** will apply.

13.6 Branch Assistant Secretary Duties

- (a) The Assistant Branch Secretary will perform the duties
 - (i) specified under the Branch rules; and
 - (ii) assist the Branch Secretary to perform all of the duties of the Branch Secretary; or
 - (iii) ~~the duties~~ of the Branch Secretary in the absence of the Branch Secretary, or
 - (iv) Branch Council or Branch Executive instructs them to perform. Any instructions may include some or all of the duties of the Branch Secretary as may be specified in each request or instruction.

Part 3—ELECTIONS AND APPOINTMENTS

Group and Branch elections are held every 4 years by a combination of direct and collegiate voting. The rules are set out as follows:

- Part 3A is about the organisation of elections
- Part 3B is about offices elected by direct voting system
- Part 3C is about offices elected by collegiate voting system
- Part 3D is about the voting and appointment system

Elections are held in stages as follows:

Stage	Election	Voting system
Stage 1	Branch Council and Branch Officers	Direct voting system: <ul style="list-style-type: none"> • Branch Secretary • Assistant Branch Secretary(s) • Branch Council Direct voting system unless collegiate voting system applies under Branch Rules: <ul style="list-style-type: none"> • Branch President • Branch Vice President(s) • Branch Treasurer • Branch Executive Councillor
Stage 2	Branch Officers	Branch rules may provide for collegiate voting system: <ul style="list-style-type: none"> • Branch President • Branch Vice President(s) • Branch Treasurer • Branch Executive Councillor
Stage 3*	Federal Vice Presidents Branch Representatives onto Federal Executive Branch Delegates to Federal Council Delegates	Collegiate voting system from and by Branch Councillors.
Stage 4	Branch Representative on Federal Executive	Collegiate voting system from and by Branch Delegates to Federal Council (Federal Councillors)
Stage 5	Federal Vice Presidents	Collegiate voting system from and by Branch Delegates to Federal Council (Federal Councillors)
Stage 6 4	Federal President	Collegiate voting system from Branch Delegates to Federal Council (Federal Councillors). Only Federal Vice Presidents are eligible for office.

Separate Stage	Federal Secretary	Direct voting system of all members
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* There is no election for Federal Vice Presidents as these position are filled ex officio upon the election of each Branch Secretary.

PART 3A – ORGANISATION OF ELECTIONS

14. DEFINITIONS

14.1 the Act

Means the *Fair Work (Registered Organisations) Act 2009*.

14.2 Candidate

Means a person who seeks or is nominated for an office. Also known as a nominee.

14.3 Close of Roll Day

The date set for the close of the roll of voters in the election notice under **Rule 17.2(e)**.

14.4 Collegiate electoral system

Means a method of election comprising a first stage, at which persons are elected to a number of offices by a direct voting system; and a subsequent stage (or subsequent stages) at which persons are elected by and from the body of persons elected at the preceding stage.

14.5 Continuously financial member

Means a member who must have remained a financial member continuously for a period of time.

14.6 Direct voting system

Means a method of election at which all eligible financial members vote.

14.7 Financial member

Means a member whose payments of entrance fees, subscription, levies or fines are not more than three months in arrears.

14.8 Irregularity

Has the same meaning as the definition contained in Section 6 of the *Fair Work (Registered Organisations) Act 2009*.

14.9 Nominator

Means a person who nominates another person for office. The rules should specify whether a Nominator or Nominators are required to validate the Nomination.

14.10 Nominee

Means the person nominated for office. Also known as a candidate.

14.11 Office and officer

Has the same meaning as the definition contained in Section 9 and Section 6 of the *Fair Work (Registered Organisations) Act 2009* respectively.

14.12 Prescribed officer

The office holder or employee within the organisation who is authorised by the committee of management to make available the register of members to the returning officer.

14.13 Returning officer

Means, in relation to elections conducted by the Australian Electoral Commission, an employee of the Australian Electoral Commission. In other cases, it means the person appointed under the rules to conduct the election.

15. ELECTIONS

15.1 Method of Election

(a) Direct Voting System

All direct elections shall be by secret postal ballot. In spite of anything else contained in these Rules, a person is eligible to vote in a ballot if they are, on Close of Roll Day, a financial member of the part of the organisation that the office represents.

(b) Federal Secretary, Branch Secretary, Branch Assistant Secretary and Branch Councillor

The following offices are elected by direct voting system:

- (i) Federal Secretary;
- (ii) Branch Secretary;
- (iii) Branch Assistant Secretary(s);
- (iv) Branch Council.

(c) Branch President and Branch Vice President(s)

The following offices are elected by direct voting system however Branch rules may provide for them to be elected by a collegiate voting system:

- (i) Branch President
- (ii) Branch Vice President(s)

(d) Branch Executive Councillor and Branch Treasurer

The following offices are elected by direct voting system however Branch rules may provide for them to be elected by a collegiate voting system:

- (i) Branch Executive Councillor(s)
- (ii) Branch Treasurer

(e) Term of Office

The term of office for successful candidates will commence from the date of the declaration of the result of the election. Candidates shall hold office for 4 years or until their successors are declared elected.

(f) Collegiate Voting System

All collegiate elections shall be by secret ballot by post or at a meeting of the electorate. The following offices are elected sequentially by collegiate voting system:

- (i) ~~Delegates to~~ Federal Council Delegates and including the Branch Representative to Federal Executive are elected by and from the Branch Council
- ~~(ii) One Branch Representative to the Federal Executive from each Branch elected by and from Delegates to Federal Council.~~
- (iii) The Branch Secretary will hold the position of Federal Vice--President ex officio except where. If the Branch Secretary is elected to the position of Federal Secretary. One and in In this case the Federal ~~Vice-Vice-President~~

17. ADVERTISING

from ~~each that Branch will be elected by and from Branch Councillors at the same time as the other offices in (i) above.~~~~elected by and from Delegates to Federal Council.~~

~~(iii)~~ The Federal President is elected by members of the Federal Council ~~from Federal Vice Presidents.~~

(g) **Branch** rules may provide that the following offices are elected by collegiate voting system:

- (i) Branch President
- (ii) Branch Vice President(s)
- (iii) Branch Treasurer
- (iv) Branch Executive Councillor(s)

16. RETURNING OFFICER

16.1 Returning Officer – Powers and Duties

(a) A returning officer, not being the holder of any office in, or an employee of, the organisation or of a branch or sub-branch of the organisation shall be appointed to conduct each election for office

(i) The Federal Returning Officer shall be appointed by Federal Council

(ii) The Branch Returning Officer shall be appointed by the respective Branch Council

(b) Where a returning officer is required to conduct an election for any position other than an office, the returning officer shall apply these election rules making any necessary changes and shall have the same powers and duties as apply under these rules to the conduct of an election for office.

(c) The returning officer shall prepare and circulate a notice calling for nominations in accordance with these rules.

(d) After the close of nominations the returning officer shall consider all nominations received during the nomination period. The Returning officer shall reject any nominations received after the nomination period has closed.

(e) The returning officer shall accept all nominations which satisfy the requirements of these rules.

(f) The returning officer shall treat any defective nominations in the manner prescribed in these rules.

(g) Where a ballot is required, the returning officer shall conduct the ballot in accordance with the provisions of these rules.

(h) In respect to any matter pertaining to the conduct of any election, and in spite of anything else contained in these rules, the returning officer shall take such action and give such directions as the returning officer considers necessary, including but not limited to making void a step already taken in the election, to ensure the secrecy of the ballot and to prevent or remedy an irregularity.

17. ADVERTISING

17.1 Publication

The returning officer shall cause an election notice to be published:

18. SCRUTINEERS

- (a) in a newspaper circulating throughout the region to which the functions of the office or offices relate;
and
- (b) on the Group, and/or Branch website;
or
- (c) in any journal or bulletin or newsletter published by the organisation electronically or by other means and circulated to all members eligible to participate in the election.

17.2 Election notice

The election notice shall:

- (a) state that the election is being conducted by the returning officer;
- (b) list the offices for which nominations are sought;
- (c) invite nomination for election from all eligible persons;
- (d) fix the time and date for the opening and closing of nominations;
- (e) fix the date for the closure of the roll of voters by specifying a day which shall be no earlier than 30 days, and no later than seven days, before the date fixed for the opening of nominations
- (f) fix the time and date for the opening and closing of the ballot;
- (g) specify the place where nomination forms may be obtained;
- (h) specify the place where nominations must be lodged;
- (i) specify the accepted method/s of lodgement;
- (j) fix a time and date for withdrawal of nominations;
- (k) specify other documentation required to be submitted with the nomination.

18. SCRUTINEERS

18.1 Appointment

Each candidate may appoint, in writing, one person as scrutineer to represent the candidate's interests in the conduct of the ballot. A scrutineer shall not be a candidate for any position which is also included in a ballot in the election. The candidate may appoint one or more substitute scrutineers, if required.

18.2 Rights and obligations

- (a) A scrutineer may be present at any stage in the ballot. This includes:
 - (i) countersigning any seals or placing their own seal on any receptacle being used for the ballot
 - (ii) bringing to the attention of the returning officer any alleged irregularity in
 - the issue of ballot papers
 - the admission of envelopes to scrutiny
 - the formality or informality of ballot papers
 - the counting of votes
- (b) A scrutineer shall not:
 - (i) interrupt the scrutiny without lawful reason

19. ELECTION TIMETABLE – NOMINATIONS AND VOTING

- (ii) disclose any knowledge acquired concerning the votes of any particular voter or voters
- (iii) fail to carry out any lawful request by the returning officer
- (iv) touch any ballot material
- (v) act in a manner which will interfere with the proper conduct of the election

Failure of a scrutineer to attend any scheduled event will not delay any step in the election.

Part 3B - DIRECT ELECTIONS

A Direct election is an election by a direct voting system at which all eligible financial members vote. Direct elections are held for the following offices:

- Branch Secretary
- Assistant Branch Secretary(s)
- Branch Council
- Federal Secretary

The following offices are elected by direct election unless Branch rules provide for collegiate voting

- Branch President
- Branch Vice President(s)
- Branch Treasurer
- Branch Executive Councillor

19. ELECTION TIMETABLE – NOMINATIONS AND VOTING

19.1 Nominations

- (a) Nominations for all offices, except Federal Secretary, will be open for at least 14 days. Nominations for Federal Secretary will be open for 21 days.

- (i) **Branch Secretary**

The election for Branch Secretary shall be conducted every four years. The election should be conducted so that a result is declared not earlier than 1 May and not later than 30 June in the election year.

- (ii) **Branch Assistant Secretary(s) and Special Sub Branch Assistant Secretaries**

The election for Branch Assistant Secretary(s) and Sub Branch Assistant Secretaries shall be conducted every four years. The election should be conducted so that a result is declared not earlier than 1 May and not later than 30 June in the election year.

- (iii) **Branch Council**

The election for Branch Council shall be conducted every four years. The election should be conducted so that a result is declared not earlier than 1 May and not later than 30 June in the election year.

- (iv) **Branch President**

The election shall be conducted so that the result is declared not earlier than 1 May and not later than 30 June in the election year.

- (v) **Branch Vice President(s)**

The election shall be conducted so that the result is declared not earlier than 1 May and not later than 30 June in the election year.

(vi) Branch Treasurer

Branch rules may provide for the office of Branch Treasurer.

The election shall be conducted so that the result is declared not earlier than 1 May and not later than 30 June in the election year.

(vii) Executive Councillor(s)

Branch rules may provide the office of one or more Executive Councillors.

The election shall be conducted so that the result is declared not earlier than 1 May and not later than 30 June in the election year.

(viii) Federal Secretary

The election for Federal Secretary shall be conducted so that the result is declared not earlier than 1 June and not later than 25 August in the election year.

- (b)** Nominations close at 12 noon on the last day. Nominations received by the returning officer after that time shall not be accepted. If any of the above dates fall on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date.
- (c)** Nominations shall be called in the manner prescribed in these rules.
- (d)** Nominations lodged with the returning officer shall be in writing and include the following information:
 - (i)** the full name of the nominee;
 - (ii)** the form in which the nominee's name is to appear on a ballot paper if different to the name shown above;
 - (iii)** the nominee's contact details;
 - (iv)** the name and address of each nominator, if required;
 - (v)** the office for which the nominee is nominating;
 - (vi)** the signed endorsement/consent of the nominee;
 - (vii)** the signature of each nominator; and
 - (viii)** any further documentation required by the returning officer.

19.2 Voting

- (a)** Voting for all elections conducted under these rules shall open on a day determined by the Returning Officer.
- (b)** The ballot shall close at 10 am on the twenty-first day after the day that the ballot opened unless otherwise determined by the Returning Officer. Ballot material received by the returning officer after that time shall not be included in the scrutiny.
- (c)** If any of the above dates fall on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date.
- (d)** In spite of the provisions of **Rule 19**, if the returning officer is unable to commence the nomination period so as to comply with **Rule 19**, the election timetable shall be established by applying the timeframes identified in this **Rule 19** but commencing from the date of the opening of nominations.

20. ELIGIBILITY TO NOMINATE

20.1 Nominations

- (a) Each member's eligibility to participate as a nominee or nominator shall be determined as at the close of nominations.
- (b) Nominations for any of the following offices must meet the requirements of that office in **Rule 20.2, 20.3, 20.4, 20.5, 20.6, 20.7, 20.8, 20.9, or 20.10**.

20.2 Branch Secretary

Persons eligible to accept nomination for Branch Secretary are:

- (a) All financial members of the Branch;
- (b) General Secretary, Assistant General Secretary and the elected members of the Executive (by whatever name called) of the relevant Associated Body established in the same State as the Branch in which the election is to be held;
- (c) Employees of the Union if the Branch rules so provide; and
- (d) Employees of the relevant Associated Body established in the same state as the Branch in which the election is to be held if the Branch rules so provide.

20.3 Branch Assistant Secretary(s)

Persons eligible to accept nomination for Assistant Branch Secretary(s) are:

- (a) All financial members of the Branch;
- (b) General Secretary, Assistant General Secretary and the elected members of the Executive (by whatever name called) of the relevant Associated Body established in the same State as the Branch in which the election is to be held;
- (c) Employees of the Union if the Branch rules so provide;
- (d) Employees of the relevant Associated Body established in the same state as the Branch in which the election is to be held if the Branch rules so provide.

20.4 Branch Assistant Secretary(s) - Special sub branch

- (a) If the rules of a Branch provide for a Special sub branch and election of an Branch Assistant Secretary from that sub Branch Rules persons eligible to accept nomination for Assistant Branch Secretary(s) are:
- (b) All financial members of the Special Sub Branch;
- (c) General Secretary, Assistant General Secretary and the elected members of the Executive (by whatever name called) of the relevant Associated Body established in the same State as the Special Sub Branch in which the election is to be held;
- (d) Employees of the Union if the Special Sub Branch rules so provide;
- (e) Employees of the relevant Associated Body established in the same state as the Special Sub Branch in which the election is to be held if the Branch rules so provide.

20.5 Branch Council

Persons eligible to accept nomination to Branch Council shall be:

- (a) all financial members of the Branch; and
- (b) General Secretary; Assistant General Secretary and the elected members of the Executive (by whatever name called) of a relevant Associated Body established in the same State as the Branch in which the election is to be held.

20. ELIGIBILITY TO NOMINATE

- (c) Where the Delegates to Branch Council are to be elected from two or more electorates then the only persons eligible to accept nominations for election as a Delegate elected by that electorate shall be financial members in that electorate or those persons in Rule 20.5(b) who would meet the other requirements for inclusion in the electorate if they were financial members.
- (d) Where a special sub-branch exists and the rules of the Branch provide for the election of a Branch Delegate to Branch Council from the special sub-branch, only members of the sub branch can vote. For the avoidance of doubt **Rule 20.5** applies with necessary modifications.

20.6 Branch President

Where an election of Executive is by direct voting system of the whole financial membership of the Branch the persons eligible to accept nomination shall be:

- (a) all financial members of the Branch; and
- (b) General Secretary; Assistant General Secretary and the elected members of the Executive (by whatever name called) of a relevant Associated Body established in the same State as the Branch in which the election is to be held.

20.7 Branch Vice President(s)

Where an election of Executive is by direct voting system of the whole financial membership of the Branch the persons eligible to accept nomination shall be:

- (a) all financial members of the Branch; and
- (b) General Secretary; Assistant General Secretary and the elected members of the Executive (by whatever name called) of a relevant Associated Body established in the same State as the Branch in which the election is to be held.

20.8 Branch Treasurer

Where an election of Executive is by direct voting system of the whole financial membership of the Branch the persons eligible to accept nomination shall be:

- (a) all financial members of the Branch; and
- (b) General Secretary; Assistant General Secretary and the elected members of the Executive (by whatever name called) of an Associated Body established in the same State as the Branch in which the election is to be held.

20.9 Executive Councillor

Persons eligible to accept nomination shall be:

- (a) Where an election of Executive is by direct voting system of the whole financial membership of the Branch the persons eligible to accept nomination shall be:
 - (i) all financial members of the Branch; and
 - (ii) General Secretary; Assistant General Secretary and the elected members of the Executive (by whatever name called) of a relevant Associated Body established in the same State as the Branch in which the election is to be held.
- (b) Where the Rules of a Branch provide for the election of one or more Executive Councillors to represent a particular class or group of members, the election shall be by secret postal ballot by and from one electorate, consisting of the financial members of the particular class or group of members.

20.10 Federal Secretary

All financial members of the Union who have been a financial member of the Group for at least 12 months at the time nominations open are eligible to accept nomination for Federal Secretary.

20.11 Nominees

A nominee must be nominated as follows.

Office	Nominators
Federal Secretary	2 members of Federal Council
Branch Secretary	2 members of the Branch
Branch Assistant Secretary	2 members of the Branch
Special Sub Branch Assistant Secretary	2 members of the Special Sub Branch
Branch President	2 members of the Branch
Branch Vice President	2 members of the Branch
Branch Treasurer	2 members of the Branch
Branch Councillor	2 members of the Branch
Branch Executive Councillor	2 members of the Branch

21. MULTIPLE NOMINATIONS – DIRECT ELECTIONS**21.1 Holding more than one office**

- (a) Nothing in this Rule shall prevent an eligible person from simultaneously holding Group and Branch offices.
- (b) No person may hold simultaneously more than one of the following Branch offices:
- (i) Branch President
 - (ii) Branch Secretary
 - (iii) Branch Assistant Secretary(s)
 - (iv) Branch Vice President(s)
 - (v) Branch Treasurer
 - (vi) Branch Executive Councillor
 - (vii) Branch Councillor

21.2 Nomination for more than one office

- (i) Where in any election a person nominates for more than one office that cannot be held simultaneously, the person may, by 12 noon on the day seven days after the close of nominations, withdraw all necessary nominations so that only one such nomination remains with the returning officer.

25. ROLL OF VOTERS

- (ii) If after 12 noon on the day seven days after the close of nominations a person has not withdrawn sufficient nominations, the returning officer shall conduct the election in accordance with **Rule 42**.

22. DEFECTIVE NOMINATIONS

22.1 Notification

- (a) Where the returning officer finds that a nomination is or may be defective, the returning officer shall, before rejecting the nomination, notify the person concerned of the defect and where practicable, give the person the opportunity of remedying the defect or providing further information in support of the nomination, within a period of not less than seven days after being notified.
- (b) Where the returning officer has notified a person of a defective nomination, and where that person has remedied the defect and advised the returning officer within the time prescribed by the returning officer, the returning officer shall accept the nomination.
- (c) Where the returning officer has notified a person of a nomination defect, and where that person has not corrected the defect and advised the returning officer within the time prescribed by the returning officer, the nomination shall be rejected.

23. WITHDRAWAL OF NOMINATIONS

23.1 Notification of withdrawal

- (a) A member nominating for any office may withdraw the nomination by notice in writing to the returning officer at any time before the closing time for the receipt of nominations;
- (b) The notification in writing referred to above must include the signed endorsement of the nominee and be in a form acceptable to the returning officer. Once a nominator has endorsed the nomination of another member for election to any office in the organisation, that nominator may not subsequently withdraw that endorsement.

24. UNCONTESTED ELECTIONS

24.1 Declaration

If, after the close of nominations, the number of valid nominations received for an office does not exceed the number of positions to be filled, the returning officer shall declare elected the person or persons nominated.

25. ROLL OF VOTERS

25.1 Supply of listings for the roll of voters

- (a) The only persons eligible to appear on the roll of voters in a ballot are those persons who, on Close of Roll Day, are financial members of the part of the organisation that the office represents.
- (b) The following offices shall represent and be elected by members of the relevant electorate:

Office	Electorate
Federal Secretary	All financial members of the Group
Branch Secretary	All financial members of the Branch

26. CONTESTED ELECTIONS

Office	Electorate
Branch Assistant Secretary(s)	All financial members of the Branch
Branch President	For direct election - All financial members of the Branch
Branch Vice President(s)	For direct election - All financial members of the Branch
Branch Treasurer	For direct election - All financial members of the Branch
Delegates to the Branch Council	All financial members of the Branch or Branch electorate
Executive Councillor	All financial members of the Branch or Branch electorate. For direct elections financial members of the particular class or group of members

- (c) Close of Roll Day shall be a day which is no earlier than 30 days and no later than 7 days before the day on which nominations for the election open.
- (d) The returning officer shall request the prescribed officer to supply the name and postal address of every member eligible to vote at an election. The returning officer may also request the prescribed officer to supply additional information which does not form part of the roll of voters but is to be used to ensure no irregularity occurs, and to supply the information in electronic form. The prescribed officer shall comply with such a request.
- (e) The prescribed officer must take all reasonable steps to ensure the listings supplied to the returning officer contain, where practicable, each eligible member's residential or other postal address rather than workplace address.
- (f) Any candidate for election and any member entitled to vote in an election or scrutineer may inspect and obtain a copy of the roll for the purposes of the election only. A copy of the roll may be provided in an electronic form.

25.2 Absent Voting

- (a) Any member who is entitled to vote at any election held under these rules and who will be absent from their usual address during the period in which the ballot is to be conducted, may apply to the returning officer for ballot material to be sent to another address that the member so nominates.
- (b) Notification to the returning officer shall be in a form acceptable to the returning officer and shall set out the member's name and usual address and the address to which the member elects to have ballot material sent.
- (c) Where a returning officer receives a request for an absent vote made in the form described in this rule, the returning officer shall comply with that request.

26. CONTESTED ELECTIONS

26.1 Ballot

28. CANDIDATES STATEMENTS

If the number of valid nominations received for an office exceeds the number of positions to be filled, the returning officer shall conduct a secret postal ballot of members entitled to vote. The returning officer may include a number of ballots on the same ballot paper.

27. BALLOT PAPERS

27.1 Ballot paper wording

- (a) The following features shall appear on all ballot papers prepared in respect of a secret postal ballot or a secret ballot at meeting/s for an election for office:
 - (i) the name of the organisation
 - (ii) the initials of the returning officer or other authenticating mark
 - (iii) the name and number of office/s to be filled
 - (iv) instructions for marking the ballot paper
 - (v) the names of the candidates in the format and order required by these rules
 - (vi) instructions for returning the ballot paper
 - (vii) name of the returning officer
 - (viii) any other instruction considered necessary by the returning officer
- (b) The returning officer shall arrange for the printing of ballot papers and distribution to members eligible to vote.
- (c) The ballot papers shall contain the names of the candidates with the surname first followed by the given names. No other candidate information will be printed on the ballot paper.
- (d) The order of names in each ballot on the ballot paper shall be determined by lot drawn by the returning officer.
- (e) The ballot shall be conducted under the proportional representation system in Part 3D of these rules.
- (f) The voting system is set out in **Rule 43**.
- (g) The ballot paper shall contain instructions for the voter to insert numbers opposite the name or names of the candidates for whom the voter wishes to vote. The voter must vote for the number of candidates to be elected otherwise the ballot paper will be informal.

28. CANDIDATES STATEMENTS

28.1 Statements

- (a) Up to seven days after the close of nominations, a candidate for a Group or Branch office may submit to the returning officer a biography and/or a statement in support of their candidature only, for distribution by the returning officer with ballot material. The statement shall not exceed 200 words.
- (b) A candidate can only submit one statement regardless of the number of positions that they are contesting.
- (c) The returning officer shall reject any statement which, in the opinion of the returning officer,
 - (i) is false or misleading or may lead to an irregularity;
 - (ii) which does not strictly comply with these rules; or
 - (iii) which breaches the law or is defamatory.

29. POSTAL BALLOT

- (d) A candidate whose statement is rejected shall be notified and shall be given not more than 2 working days from being notified to supply a replacement statement that complies with this rule.
- (e) The order of publication of candidates' statements shall be the same order as candidates' names on the ballot paper, unless there is more than one ballot in which case the returning officer may print statements in alphabetical order by surname. The returning officer shall also indicate if a candidate has failed to submit a valid statement.

29. POSTAL BALLOT

29.1 Postal facilities for ballot material

The returning officer shall, for the purpose of receiving ballot material in respect of a ballot, use a private box or other secure postal facility at a post office or mail centre. Access to the private box mentioned in this rule shall be limited to:

- (a) persons authorised by Australia Post,
- (b) the returning officer, and
- (c) persons authorised in writing by the returning officer.

29.2 Issue of ballot material

- (a) On or before the opening day of the ballot the returning officer shall forward ballot material in a sealed envelope by prepaid post to each person on the roll of voters at the address shown on the roll of voters.
- (b) Ballot material shall include:
 - (i) one or more ballot papers showing the time and date of the close of the ballot,
 - (ii) a Reply Paid envelope addressed to the private box referred to in this rule, being an envelope that may be posted without expense to the voter and is large enough to have placed in it the declaration envelope,
 - (iii) an inner 'Declaration Envelope' as prescribed by the Act, suitable for containing the ballot paper/s.
 - (iv) a copy of each statement submitted by candidates under **Rule 28**.

29.3 Replacement ballot material

- (a) Where a member whose name is on the roll of voters claims that the ballot material has not been received or has been lost, destroyed or spoilt, the member may make an application to the returning officer for the issue of replacement ballot material.
- (b) The application shall
 - (i) be in writing
 - (ii) set out the applicant's full name and postal address
 - (iii) set out the grounds on which the application is made
 - (iv) contain a declaration that the applicant has not voted in the ballot
 - (v) be accompanied, if practicable, by any evidence that is available of the loss, destruction or spoiling of the ballot material.
- (c) If the returning officer is satisfied that the information contained in the application is true and correct, the returning officer shall issue replacement ballot material to the applicant.

30. SCRUTINY**30.1 During the ballot**

During the course of the ballot the returning officer may collect returned envelopes from the private post box and keep them in safe custody until the commencement of the scrutiny. The returning officer shall make a final clearance of returned envelopes so that all envelopes received by the returning officer prior to the closing time for the ballot are admitted to the scrutiny. No envelopes returned after the close of the ballot shall be admitted to the scrutiny.

30.2 Preliminary scrutiny of envelopes

- (a) The returning officer shall conduct a preliminary scrutiny of returned declaration envelopes to ensure that only one returned envelope from each eligible voter is admitted to the count. The returning officer may commence the preliminary scrutiny prior to the close of the ballot.
- (b) Before proceeding to count the votes to ascertain the result of the ballot, the returning officer shall:
 - (i) remove the 'Declaration Envelope' from the Reply Paid envelopes, and
 - (ii) examine the voter's declaration attached to each 'Declaration Envelope', and mark off the voter's name against a copy of the roll of voters.
- (c) A voter's returned ballot material shall be rejected and set aside if:
 - (i) The 'Declaration Envelope' has not been returned, or
 - (ii) the voter has not completed the declaration on the 'Declaration Envelope' to satisfy the returning officer,
 - (iii) the voter is ineligible to vote, or
 - (iv) the returning officer is unable to identify the voter on the roll of voters.
- (d) Where a voter returns more than one set of ballot material, only one set of ballot material shall be admitted into the count. The returning officer shall decide which set of ballot material is to be rejected.
- (e) The returning officer shall note on the ballot material that it has been rejected and the reason for rejection and set it aside for separate custody.

30.3 Scrutiny of ballot papers

- (a) When the returning officer has determined which declaration envelopes are accepted for the count, the declaration section of each envelope is detached and removed so that the envelope can no longer be identified. Each envelope shall then be opened and the ballot papers extracted to be counted.
- (b) The returning officer shall reject as informal a ballot paper that:
 - (i) does not bear the initials or other authenticating mark of the returning officer, and/or
 - (ii) has upon it any mark or writing by which the voter can be identified, and/or
 - (iii) is not marked substantially in accordance with the instructions included on the ballot paper, and/or
 - (iv) the marking is such that the intention of the voter is not clear,

and/or

- (v) is not returned inside the declaration envelope.

Where, during the ballot, the returning officer is informed by a scrutineer that the scrutineer objects to a returned envelope or a ballot paper being accepted or rejected, the returning officer shall decide whether the returned envelope or ballot paper is to be admitted or rejected and endorse the decision on the envelope or ballot paper. The decision of the returning officer is to be final.

31. DECLARATION OF RESULTS

31.1 Notice

- (a) The returning officer shall declare the result of the election within fourteen days of the closing day of the ballot by giving notice of the result in writing to:
- (i) the Federal Secretary of the organisation at its registered office for elections conducted for the Group;
 - (ii) each Branch Secretary for elections conducted for their Branch; and
 - (iii) each candidate.
- (b) The returning officer shall, at the same time and in the same manner as the returning officer declares the result of the election, declare the following information in relation to the ballot:
- (i) the total number of persons on the roll of voters
 - (ii) the total number of ballot papers issued
 - (iii) the total number of envelopes that were returned undelivered by the closing date of the ballot
 - (iv) the total number of ballot papers received by the returning officer
 - (v) the total number of ballot papers rejected as informal

Part 3C - COLLEGIATE ELECTIONS

A collegiate election is a method of election in which persons are elected to certain offices by and from a body of persons (such as a committee or a council) who were elected at a previous stage by a direct voting system.

Collegiate elections are held for the following Federal offices:

- Federal President
- Federal Vice President (only if the Branch Secretary is elected as Federal Secretary)
- Branch Representative to Federal Executive
- Federal ~~Councillors~~Council Delegates

Collegiate elections may be held for the following offices if Branch rules provide for them:

- Branch President
- Branch Vice President(s)
- Branch Treasurer
- Branch Executive Councillor

32. TIMETABLE – NOMINATIONS AND VOTING

The election for offices to be conducted under a collegiate voting system will occur at the first meeting of the relevant body of offices after the direct election for offices that form the electorate for the election. If no meeting is scheduled within a 3 month period, or if the rules otherwise provide, the ballot shall be conducted as a postal ballot.

32.1 Nominations

- (a) Nominations for all offices shall be called by the returning officer fourteen days prior to the meeting at which the election is to be held or prior to the sending of the postal ballot. If that day falls on a weekend or a public holiday, the relevant day shall be the returning officer's next standard working day after that date. Nominations shall close at the meeting in descending order as identified in the order of elections for officers of the Group in this rule or in Branch rules for election of officers of the Branch. If a candidate is successful for an office the candidate is excluded from any subsequent election.
- (b) In spite of the above paragraph, if a postal ballot is to take place, nominations shall close at a date and time to be determined by the returning officer and ballots, if any, shall be conducted, with the necessary changes, as a postal ballot in accordance with the rules which apply to the conduct of a direct election.

~~32.2 Branch Delegates to Federal Council~~

~~The election of Branch Delegates to Federal Council shall be conducted at the first meeting of Branch Council. The election shall be conducted so that the result is declared not earlier than 1 June and not later than 25 August.~~

32.2 Federal Council Delegates and Branch Representative to Federal Executive

- (a) The election of Federal Council Delegates shall be conducted at the first meeting of Branch Council. The election shall be conducted so that the result is declared not earlier than 1 June and not later than 25 August.
- (b) The number of Federal Council Delegates is determined in accordance with the formula in Rule 3.2;
 - (i) One Federal Council Delegate position will be reserved for the Branch Secretary.
 - (ii) One Federal Council Delegate position will be elected as Branch Representative to the Federal Executive.
 - (iii) The remainder will be elected as Delegates to Federal Council.

32.3 Federal Vice-President election if Branch Secretary is Federal Secretary

Each Branch Secretary will hold the position of Federal Vice-President ex officio. If a Branch Secretary is elected to the position of Federal Secretary then the Federal Vice-President position for that Branch is elected by that Branch Council.

32. ~~34~~ Seniority of Federal Vice Presidents

- ~~(a) The election for Federal Vice President from each Branch shall be conducted as soon as practicable after Branch Councillors take office. Nominations shall close on a date at least 14 days, but no more than 28 days after the notification.~~
- (ba)** Following the election of the Federal President the seniority of Federal Vice-Presidents shall be fixed by agreement between the Vice-Presidents advised in writing to the President or Chair of a Federal Council meeting.
- (eb)** If the election of Federal President is declared before the Federal Council Meeting and no agreement has been reached Federal Council will determine the order.

33. ELIGIBILITY TO NOMINATE

(dc) If the election of Federal President is declared during or after the Federal Council Meeting and no agreement is advised to the President within two weeks of the declaration, the Federal Council will determine the order by postal ballot. In this case:

- (i) the Federal Secretary shall conduct a postal ballot of the Federal Council before a period of six weeks from the declaration of the Federal President
- (ii) all current Federal Vice-Presidents will be listed on the ballot paper and Federal Councillors will complete the ballot paper by ranking the Vice Presidents from highest to lowest (with number 1 the highest ranking)
- (iii) Seniority of the Vice-Presidents will be determined in the order of the lowest ranking number to highest ranking number determined from the aggregate of rankings provided by Federal Council in the postal ballot
- (iv) except as provided in this Rule, the ballot shall be conducted in accordance with the provisions of **Rule 3.11**.
- (v) If Federal Council meets before the completion of the steps set out in sub-paragraphs in **Rule 32.4(dc)(i), (ii), (iii), and (iv)** then it may determine the order by resolution and any further action under those sub-paragraphs shall cease.

32.5 Federal President

The election for Federal President shall be conducted as soon as practicable after completion of elections for Federal [Vice Presidents Council](#). Nominations shall close on a date at least 14 days, but no more than 28 days after the notification.

32.6 Branch Officers

Branch officers elected by a collegiate election will be elected in the order of elections set out in Branch rules except where **Rule 32.7** applies.

32.7 Branch Executive Councillor

Branch rules may provide for one or more Branch Executive Councillor(s). The election for Branch Executive Councillor shall be conducted so that the result is declared not earlier than 1 May and not later than 30 June. Nominations shall be called at least 14 days prior to the date on which nominations close.

32.8 Voting

- (a) Voting for all collegiate elections shall occur at the meeting of the relevant electorate immediately after nominations have closed; or by secret postal ballot immediately after nominations have closed
- (b) Ballots shall be conducted so that the ballot for the office highest in the hierarchical order shall be completed first before the ballot for the next highest office is conducted. The returning officer shall conduct each ballot in sequence in descending order as identified in these rules. Once a candidate is successful in a ballot the candidate is excluded from any subsequent ballots.

33. ELIGIBILITY TO NOMINATE

33.1 Nominations

- (a) Each member's eligibility to participate as a nominee or nominator shall be determined as at the date that the meeting is held.
- (b) A candidate for any office must be a member of the relevant electorate.
- (c) The persons eligible for nomination for the following offices are:

33.2 Branch Delegates to Federal Council

Persons eligible to accept nomination for Branch Delegate to Federal Council are members of the Branch Council.

33.3 Branch Representative on Federal Executive

Persons eligible to accept nomination for Branch Representative to Federal Executive are ~~Branch~~ Delegates to ~~Federal~~ Branch Council from the Branch concerned.

33.4 Federal Vice-President

(a) The Branch Secretary will hold this office ex officio.

(b) If the Branch Secretary is Federal Secretary pPersons eligible to accept nomination for Federal Vice-President are Federal Council Delegates from the Branch concerned.

33.5 Federal President

Persons eligible to accept nomination for Federal President are the Federal Vice-Presidents and Branch Representatives to the Federal Executive.

33.6 Branch President

Where the Rules of a Branch provide for collegiate election of Branch President, the persons eligible to accept nominations are members of the Branch Council.

33.7 Branch Vice President(s)

Where the Rules of a Branch provide for collegiate election of Branch Vice President(s), the persons eligible to accept nominations are members of the Branch Council.

33.8 Branch Treasurer

Where the Rules of a Branch provide for collegiate election of Branch Treasurer, the persons eligible to accept nominations are members of the Branch Council.

33.9 Branch Executive Councillor

Where the Rules of a Branch provide for collegiate election of one or more Executive Councillors to represent a particular class or group of members, the election shall be by ballot by and from one electorate, consisting of the financial members of the particular class or group of members.

33.10 A nominee must be nominated by the number of nominators in the following table. A nominator for any office must be a member of the relevant electorate.

Office	Nominees
Branch Delegates to Federal Council <u>Federal Council Delegates</u>	2 members of Branch Council
Federal Vice-Vice -President	1 member of Federal <u>Branch</u> Council from the Branch <u>if an election required</u>
Branch Representative on <u>to</u> Federal Executive	1 member of Federal <u>Branch</u> Council from the Branch
Federal President	2 members of Federal Council

35. DEFECTIVE NOMINATIONS

Office	Nominees
Branch President	2 members of Branch Council
Branch Vice President	2 members of Branch Council
Branch Treasurer	2 members of Branch Council
Branch Executive Councillor	2 members of Branch Council

34. MULTIPLE NOMINATIONS – COLLEGIATE ELECTIONS

34.1 Holding more than one office

- (a) Nothing in this Rule shall prevent an eligible person from simultaneously holding Group and Branch offices.
- (b) No person may hold simultaneously more than one of the following Branch offices:
 - (i) Branch President
 - (ii) Branch Secretary
 - (iii) Branch Assistant Secretary(s)
 - (iv) Branch Vice President(s)
 - (v) Branch Treasurer
- (c) No person may hold simultaneously more than one of the following Federal offices:
 - (i) Federal Secretary
 - (ii) Federal Vice President
 - (iii) Branch Representative to Federal Executive
 - (iv) Delegate to Federal Council

34.2 Nomination for more than one office

Where in any election a person nominates for more than one office that cannot be held simultaneously, the person may, by 12 noon on the day seven days after the close of nominations, withdraw all necessary nominations so that only one such nomination remains with the returning officer.

If after 12 noon on the day seven days after the close of nominations a person has not withdrawn sufficient nominations, the returning officer shall conduct the election in accordance with **Rule 42**.

35. DEFECTIVE NOMINATIONS

35.1 Notification

- (a) If the returning officer conducting an election finds a nomination to be defective, the returning officer must, before rejecting the nomination, notify the person concerned of the defect and, where practicable, give the person the opportunity of remedying the defect, within, where practicable, not less than 7 days after the person is notified.
- (b) Where the returning officer has notified a person of a defective nomination, and where that person has corrected the defect and advised the returning officer within the time prescribed by the returning officer, the returning officer shall accept the nomination.

37. ROLL OF VOTERS

- (c) Where the returning officer has notified a person of a nomination defect, and where that person has not corrected the defect and advised the returning officer within the time prescribed by the returning officer, the nomination shall be rejected.

36. WITHDRAWAL OF NOMINATIONS

36.1 Notification of withdrawal

- (a) A member nominating for any office may withdraw the nomination by notice in writing to the returning officer up to, but not later than a time determined by the returning officer for the commencement of the printing of ballot papers.
- (b) The notification referred to above must include a signed endorsement by the nominee and be in a form acceptable to the returning officer.
- (c) Once a nominator has endorsed the nomination of another member for election to any office in the organisation, that nominator may not subsequently withdraw that endorsement.

37. ROLL OF VOTERS

37.1 Roll of Voters

- (a) A person is eligible to vote in a ballot if, on the date of the meeting, they are a member of the relevant electorate identified in this rule.
- (b) Offices shall be elected by members of the electorates in the following table.

Office	Electorate
Branch President	Members of the Branch Council
Branch Vice President	Members of the Branch Council
Branch Treasurer	Members of the Branch Council
Branch Executive Councillor	Members of the Branch Council
Branch Delegates to Federal Council <u>Delegates</u>	Members of the Branch Council
Federal Vice-Vice- President	Delegates to Federal-Branch Council from a Branch <u>if an election required</u>
Branch Representative on <u>to</u> Federal Executive	Delegates to Federal-Branch Council from a Branch
Federal President	Federal Council

- (c) The returning officer shall request the prescribed officer to supply the name and postal address of every member eligible to vote at an election. The returning officer may also request the prescribed officer to supply additional information which does not form the roll of voters but is to be used to ensure no irregularity occurs, and to

39. BALLOT PAPERS

supply the information in electronic form. The prescribed officer shall comply with such request.

- (d) Any candidate for election and any member entitled to vote in an election may inspect and obtain a copy of the roll for the purposes of the election only. A copy of the roll may be provided in an electronic form.

37.2 Voting

Voting shall be conducted at the first meeting of the relevant electorate after the date on which nominations were called. If no meeting is scheduled within a 3 month period, or if the rules otherwise provide, the ballot shall be conducted as a postal ballot

37.3 Absent voting

A member entitled to vote in a collegiate election and who will be unable to attend the meeting at which an election is to be held may vote by way of an absent vote.

- (a) Any member who is entitled to vote at any election held under these rules and who will be unable to attend the meeting at which the election is to be conducted, may apply to the returning officer for ballot material to be sent to an address that the member so nominates.
- (b) Notification to the returning officer shall be in a form acceptable to the returning officer and shall set out the member's name and usual address and the address to which the member elects to have ballot material sent.
- (c) Where a returning officer receives a request for an absent vote made in the form described in this rule, the returning officer shall comply with that request. To provide the absent voters with a reasonable opportunity to return the ballot the returning officer shall not count the ballot until ten days from the date of posting of the ballot paper/s. If all the ballot papers are returned before the expiration of the ten day period the returning officer may count the ballot immediately.

38. CONTESTED ELECTIONS

38.1 Ballot

If the number of valid nominations received for an office exceeds the number of positions to be filled, the returning officer shall conduct a secret ballot at the meeting of members entitled to vote. Ballots shall be conducted sequentially in the order provided for in these rules. Once a ballot is completed and the result determined the ballot for the next highest office shall commence.

39. BALLOT PAPERS

39.1 Ballot paper wording

- (a) The following features shall appear on all ballot papers prepared in respect of a secret ballot for an election for office:
 - (i) the name of the organisation
 - (ii) the initials of the returning officer or other authenticating mark
 - (iii) the name and number of the office/s to be elected
 - (iv) instructions for marking the ballot paper
 - (v) the names of the candidates in the order required by the rules
 - (vi) instructions for returning the ballot paper

41. DECLARATION OF RESULTS

- (vii) name and location of the returning officer
- (viii) any other instruction considered necessary by the returning officer.
- (b) The ballot papers shall contain the names of the candidates with the last name first followed by the given names. No other candidate information will be printed on the ballot paper.
- (c) The order of names in each ballot on the ballot paper shall be determined by lot drawn by the returning officer.
- (d) The ballot shall be conducted under the proportional representation system in Part 3D of these rules.
- (e) The voting system is set out in **Rule 43**.
- (f) The ballot paper shall contain instructions for the voter to insert numbers opposite the name or names of the candidates for whom the voter wishes to vote. The voter must vote for the number of candidates to be elected otherwise the ballot paper will be informal.

40. SCRUTINY

40.1 Scrutiny of ballot papers

- (a) Subject to **Rule 37.3(c)** immediately after the close of the ballot the returning officer shall conduct the count of the votes.
- (b) The returning officer shall reject as informal a ballot paper that:
 - (i) does not bear the initials or other authenticating mark of the returning officer, and/or
 - (ii) has upon it any mark or writing by which the voter can be identified, and/or
 - (iii) is not marked substantially in accordance with the instructions included on the ballot paper, and/or
 - (iv) the marking is such that the intention of the voter is not clear.
- (c) Where, during the ballot, the returning officer is informed by a scrutineer that the scrutineer objects to a ballot paper being accepted or rejected, the returning officer shall decide whether the ballot paper is to be admitted or rejected and endorse the decision on the ballot paper.

41. DECLARATION OF RESULTS

41.1 Notice

- (a) The returning officer shall declare the result of the election by giving notice of the result in writing to the relevant officer of the organisation at its registered office.
- (b) The returning officer shall, at the same time and in the same manner as the returning officer declares the result of the election, declare the following information in relation to the ballot:
 - (i) the total number of persons on the roll of voters
 - (ii) the total number of ballot papers issued
 - (iii) the total number of envelopes that were returned undelivered by the closing date of the ballot (if applicable)
 - (iv) the total number of ballot papers received by the returning officer
 - (v) the total number of ballot papers rejected as informal.

Part 3D – VOTING AND APPOINTMENT SYSTEMS

42. ORDER OF DECLARATION OF BRANCH ELECTIONS

42.1 Branch elections

The Returning Officer must conduct Branch elections to ensure that no person holds more than one office as set out in **Rules 21 and 34**.

(a) A direct election will be declared in the following order:

- (i) Branch President
- (ii) Branch Secretary
- (iii) Branch Assistant Secretary(s)
- (iv) Branch Vice President(s)
- (v) Branch Treasurer
- (vi) Branch Executive Councillor
- (vii) Branch Councillor

(b) A collegiate Branch election will be declared in the following order:

- (i) Branch President
- (ii) Branch Vice President(s)
- (iii) Branch Treasurer

42.2 Once a person has been declared holding a higher office then that persons preferences for the lower office shall be allocated to the continuing candidates in accordance with **Rule 43.3** with the necessary modifications as if they had been eliminated.

42.3 Federal officer elections

The Returning Officer must conduct the collegiate election for Federal Council to ensure that no person holds more than one office as set out in **Rule 34**.

(a) The collegiate election for Federal Council ~~and~~Delegates will be declared in the following order:

- (i) Branch Federal Vice-President if required
- (ii) Branch Representative to Federal Executive
- (iii) Federal Council Delegates

(b) Once a person has been declared holding a higher office then that person's preferences for the lower office shall be allocated to the continuing candidates in accordance with **Rule 43.3** with the necessary modifications as if they had been eliminated.

43. PROPORTIONAL REPRESENTATION SYSTEM

In any election conducted in accordance with this Rule the following provisions shall apply:

43.1 A voter shall record their vote for at least the number of candidates to be elected by placing the number "1" and if necessary the numbers "2", "3", "4" and so on consecutively in the squares opposite the names of the candidates in the order of the voter's preference for them.

43. PROPORTIONAL REPRESENTATION SYSTEM

- (a) A voter may, if the voter so desires, vote for additional candidates by placing further consecutive numbers in the squares opposite their names in the order of the voter's preferences.
- 43.2** At the close of the poll the Returning Officer shall ascertain the total number of first preference votes recorded for each candidate on all ballot papers not rejected by the Returning Officer as informal and the total of all such votes.
- (a) The Returning Officer shall then determine a quota by dividing the total number of first preference votes for all candidates by the number equal to the number of positions to be filled plus one and by increasing the quotient so obtained (disregarding any remainder) by one.
- (b) The Returning Officer shall declare elected any candidate who has received a number of first preference votes equal to or greater than the quota so determined.
- 43.3** Unless all vacancies have been filled, the surplus votes above the quota of each elected candidate shall be transferred to the continuing candidates, in proportion to the voters' preferences, as follows:
- (a) The Returning Officer shall ascertain in respect of each continuing candidate, the total number of ballot papers of the elected candidate which bear the next available preference for that continuing candidate.
- (b) The Returning Officer shall divide the number of elected candidate's surplus votes by the number of first preference votes (excluding any first preference votes indicated on ballot papers which do not bear a next available preference for a continuing candidate) received by the Returning Officer and the resulting fraction shall, for the purposes of this clause, be the transfer value of that candidate's surplus votes.
- (c) The Returning Officer shall, by multiplying that total by the transfer value of the elected candidate's surplus votes, determine the number of votes to be transferred from the elected candidate to each continuing candidate.
- (d) If, as a result of the multiplication, any fraction results, so many of those fractions, taken in the order of their magnitude, beginning with the largest, as are necessary to ensure that the number of votes transferred equals the number of elected candidate's surplus votes shall be reckoned as of the value of unity and the remaining fractions shall be ignored.
- 43.4** If, as a result of the transfer of the surplus votes of a candidate elected at any stage of the scrutiny, a continuing candidate has received a number of votes equal to or greater than the quota, that candidate shall be elected.
- (a) Unless all the vacancies have been filled, the surplus votes of the elected candidates shall be transferred to the continuing candidates in accordance with the provisions of **Rule 43.3** but, in the application of those provisions, only those ballot papers which have been transferred to the elected candidates from the candidate or candidates elected at the last preceding count shall be taken into consideration.
- 43.5** If, after the transfer of the surplus votes of the elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes shall be excluded and the whole of that candidate's ballot papers shall be transferred to the continuing candidates next in order of the voters' available preferences.
- (a) Any votes received by an excluded candidate by transfer of a surplus shall be transferred at their transfer value which they were transferred to that candidate.

43. PROPORTIONAL REPRESENTATION SYSTEM

- (b) If thereupon, or as a result of the exclusion of a candidate at any subsequent stage of the scrutiny, a continuing candidate has received a number of votes equal to or greater than the quota, that candidate shall be elected.
 - (c) If no continuing candidate has then received a number of votes equal to the quota, the process of excluding the candidate with the fewest votes and the transferring of ballot papers containing those votes to the continuing candidates shall be repeated until a continuing candidate has received a number of votes equal to the quota, or in respect of the last vacancy, a majority of the votes remaining in the count, but the process of excluding candidates shall not be repeated after the number of continuing candidates is equal to the number of unfilled vacancies.
 - (d) A ballot paper that under this clause is, pursuant to the exclusion of a candidate, required to be transferred to a continuing candidate shall be set aside as finally dealt with if it does not indicate a next available preference for a continuing candidate.
- 43.6 After all the candidates who have received a number of votes equal to the quota are elected -
 - (a) where there is one remaining vacancy - the candidate who has received a majority of the votes remaining in the count; or
 - (b) where the number of continuing candidates is equal to the number of remaining unfilled vacancies - those candidatesshall be elected.
- 43.7 Where, on the count of the first preference votes, or at the same time at any subsequent stage of the scrutiny, two or more candidates are elected by reason of their having received a number of votes equal to or greater than the quota, any transfer of the surplus votes of those candidates shall be carried out in the order, first of the candidate with the largest surplus, second of the candidate with the next largest surplus and so on.
 - (a) In the case of surpluses of equal size the Returning Officer shall determine by lot which shall be first distributed.
- 43.8 Notwithstanding anything contained in this Rule, a transfer of the surplus votes of an elected candidate shall be deferred (but without affecting the order of that transfer) so long as the total number of those surplus votes and any other surplus votes not transferred is less than the difference between the total votes of the two continuing candidates with the fewest votes.
 - (a) In any such case, unless all vacancies have been filled, the candidate with the fewest votes shall be first excluded and the ballot papers containing that candidate's votes shall be transferred to the continuing candidates as provided in **Rule 43.3**.
- 43.9 Where, on any count at which the candidate with the fewest number of votes has to be excluded, two or more candidates have an equal number of votes (that number being fewer than the number of votes that any other candidate has or those candidates being the only continuing candidates)-
 - (a) such one of those candidates as had the fewest number of votes at the last count at which they did not have an equal number of votes shall be excluded; or
 - (b) if they had an equal number of votes at all preceding counts, the Returning Officer shall determine by lot which candidate shall be excluded.If after such exclusion there is only one continuing candidate the Returning Officer shall declare that candidate elected.
- 43.10 A ballot paper on which the voter has recorded the required minimum number of votes shall not be treated as informal by reason only that:

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- (a) the same preference (other than the voter's first preference) has been recorded on the ballot paper for more than one candidate, but the ballot paper shall be treated as if those preferences and any subsequent preferences had not been recorded on the ballot paper, or
 - (b) there is a break in the order of the voter's preferences, but the ballot paper shall be treated as if any subsequent preferences had not been recorded on the ballot paper.
- 43.11** A reference in this Rule to an exhausted ballot paper is a reference to a ballot paper on which there is not recorded a vote for a continuing candidate.

44. CASUAL VACANCIES

- 44.1** In the event of a casual or extraordinary vacancy arising in the following offices the Branch concerned may elect or appoint another person to fill the casual vacancy:
- (a) Delegate to Branch Council,
 - (b) Branch Officer,
 - (c) ~~Delegate to~~ Federal Council Delegate or
 - (d) Branch Representative on the Federal Executive.
- 44.2** Where the unexpired period of office is three years or less in the case of an office elected four yearly the casual vacancy may be filled by appointment by the Branch Council of a person who would be eligible for election to the office.
- 44.3** In other cases an election shall be conducted using so far as may be practicable the same mode of election as is prescribed by these rules for election to that office. Any person so elected or appointed shall hold office for the unexpired portion of the term of the person he or she is elected or appointed to replace.
- 44.4** Where a casual vacancy is to be filled by election, the Branch Council may appoint a member attached to the Branch or Sub-branch, from where the vacancy arose to act in the vacant position pending the election of a person to fill the vacant position.
- (a) The member appointed under this sub-rule shall cease to act when the position is filled.
 - (b) The election shall be held within six months of the vacancy. The member then elected to hold office for the unexpired portion of the term attached to that office.
- 44.5** In the event of any casual or extraordinary vacancy occurring in any office of Federal Officer the provisions of **Rule 44.1, 44.2, 44.3, and 44.4** shall apply save that the functions assigned to the Branch Council in those sub-rules shall be performed by the Federal Council.

Part 4—FINANCIAL

45. FINANCIAL DISCLOSURE AND TRAINING OBLIGATIONS FOR THE GROUP AND ITS BRANCHES

- 45.1** Group and Branch officers are subject to the financial disclosure, policy, and training obligations in the Fair Work (Registered Organisations) Act.
- 45.2** Group and Branch officers will comply with these requirements.

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- (a) **office** has the same meaning as defined by section 9 of the *Fair Work (Registered Organisations) Act 2009*.
 - (b) **officer** has the same meaning as defined by section 6 of the *Fair Work (Registered Organisations) Act 2009*.
- 45.3** In addition to the disclosure obligations imposed by the Act, and without limiting those obligations in any way:
- (a) The disclosure obligations are also obligations owed by officers under these rules.
 - (b) Where the disclosure obligations impose on an officer of the Group an obligation to disclose a matter to the Group, the Federal Secretary must keep a written record of the disclosure.
 - (c) Where the disclosure obligations impose on an officer of a Branch an obligation to disclose a matter to the Branch, the Branch Secretary must keep a written record of the disclosure, and shall forward to the Federal Secretary a written record of the disclosure.
- 45.4** The written record forwarded to the Federal Secretary shall be made within one month of the disclosure to the Branch, or immediately if requested by the Federal Secretary.

46. FEDERAL FUND

- 46.1** There shall be a fund to be known as the Federal Fund which shall consist of -
- (a) Any real or personal property of which the committee of management of the Group by the rules or by any established practice not inconsistent with the rules has or in the absence of any limited term lease bailment or arrangement would have the right of custody control or management.
 - (b) Capitation fees paid by a Branch.
 - (c) The national union subscription paid by each member
 - (d) Levies paid by a Branch.
 - (e) Any interest, rents, dividends or other income derived from the investment or use of the Fund.
 - (f) Any superannuation or long service leave or other funds operated or controlled in accordance with rules relating to the Group as a whole for the benefit of its officers or employees.
 - (g) Any sick pay fund, accident pay fund, funeral fund, tool benefit fund or like fund operated in accordance with rules relating to the organisation as a whole for the benefit of its members.
 - (h) Any property acquired wholly or mainly by expenditure of the moneys of the Fund or derived from other assets of the Fund, and
 - (i) The proceeds of any disposal of parts of the Fund.
 - (j) any and all intellectual property of the SPSF Group, which includes any contractual rights which may exist in relation to any innovation or work, and all statutory and other proprietary rights (including rights to require information be kept confidential) in respect of inventions, patents, trade marks, designs, copyright, know-how, trade secrets, and all other rights with respect to intellectual property including all rights to apply for the same and, for the avoidance of doubt, including copyright in works and sound recordings and broadcasts vesting by virtue of the *Copyright Act 1968* (Cth.);

47. EXPENDITURE OF SPSF GROUP FUNDS

- 47.1** The Federal Fund may only be expended to further the Union's Objects.
- 47.2** Disbursements in regard to expenditure of the Federal Funds may be made against the authority of a resolution of the Federal Council or Federal Executive, or upon the recommendation of the Federal Secretary and the approval of a Federal Officer authorised for that purpose with a copy of any such approval to be provided to the Federal Secretary for inclusion in the statement of receipts and expenditure for the period in which it occurred.
- 47.3** Expenditure on the general administration of the Group does not require the prior authority of Federal Council or Federal Executive.
- 47.4** Payment of all accounts for expenditure authorised in accordance with **Rule 47.2 and 47.3** shall be made from such account as the Federal Council or the Federal Executive may from time to time direct:
- (a) by cheque signed by two persons, at least one of whom is a Federal Officer or an officer of the SPSF Group delegated by the Federal Executive to sign cheques, and the other signatory may be an employee authorised by the Federal Executive, to sign cheques; or
 - (b) by a system of funds transfer approved by the Federal Executive.

48. BRANCH FUND

- 48.1** Each Branch shall have a fund known as the Branch Fund and which shall be managed and controlled in accordance with rules of that Branch.
- 48.2** A Branch Fund shall consist of -
- (a) Any real or personal property of which the Branch of the Group by the rules or by any established practice not inconsistent with the rules, has, or in the absence of any limited term lease, bailment or arrangement, would have the right of custody, control or management;
 - (b) The amounts of entrance fees, subscriptions, fines, levies and other fees received by a Branch, less so much of these amounts as is payable by the Branch to the Federal Fund;
 - (c) Any interest, rents or dividends derived from the investment or use of the Fund;
 - (d) Any superannuation or long service leave fund operated or controlled by the Branch for the benefit of its officers or employees;
 - (e) Any sick pay fund, accident pay fund, funeral fund, tool benefit fund or like fund operated or controlled by the Branch for the benefit of its members;
 - (f) Any property acquired wholly or mainly by expenditure of the moneys of the Fund or derived from other assets of the Fund; and
 - (g) The proceeds of any disposal of parts of the Fund.
- 48.3** Rules relating to a Branch Fund shall not be altered except with the consent of the Branch concerned.

49. LOANS, GRANTS AND DONATIONS BY THE GROUP OR BY ANY BRANCH

- 49.1** A loan, grant or donation of an amount exceeding \$1,000 must not be made by the Group or a Branch committee of management unless -
- (a) The making of the loan, grant or donation would be in accordance with the rules of the Union or of the Branch; and

51. ENTRY FEES, SUBSCRIPTIONS, LEVIES AND OTHER FEES

- (b) For a loan, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory

50. STATEMENT OF ACCOUNTS

- 50.1** The SPSF Group shall prepare and present statements of account in accordance with the provisions of *Fair Work (Registered Organisations) Act 2009*. Terms used in this rule shall have the same meaning as the term is used in the Act.
- 50.2** The Federal Council may determine that a concise report for the financial year be provided free of charge to each member.
- 50.3** Subject to **Rule 50.4**, the full report for a financial year will be presented to the Federal Council or the Federal Executive acting as Committee of Management.
- 50.4** At the conclusion of each financial year, where 5% of the members of the SPSF Group call for a general meeting to receive the full report, the full report will be presented to a general meeting. Such a general meeting shall be dealt with in accordance with this sub-rule.
 - (a) The petition will state “We the undersigned SPSF Group members call for a general meeting of members to receive the full financial report for the last ending financial year”.
 - (b) The petition will be addressed to the Federal Secretary, and must be signed and dated by each signatory, and must also include the Branch and the membership number of each signatory.
 - (c) The general meeting will be held in Sydney. The Federal Secretary shall advise all members of the time and place by notice published on the SPSF Group website and State Branch bulletins.
 - (d) There will be no quorum for the general meeting.
- 50.5** If the General Manager has issued a certificate stating that the Reporting Units shall be other than the SPSF Group Federal Office, then:
 - (a) references in this rule to the Federal Council shall be taken to be references to the management committee of the respective Reporting Units;
 - (b) references in this rule to the Federal Secretary shall be taken to be references to the Secretary of the respective Reporting Units;
 - (c) references in this rule to members of the SPSF Group shall be taken to be references to the members of the respective Reporting Units; and
 - (d) in all respects the terms of this **Rule 50** shall be applied to those Reporting Units.

51. ENTRY FEES, SUBSCRIPTIONS, LEVIES AND OTHER FEES

- 51.1** The entrance fees, subscriptions, levies and other fees payable by members of the Group shall be paid to the Secretary of the Branch to which the member belongs.
- 51.2** The entrance fees, subscriptions, levies and other fees payable by members of the Group may be paid:
 - (a) at the office of the Branch;
 - (b) to a collector authorised by the Branch Secretary;
 - (c) by an authority for deduction from salary and payment to the Branch Secretary;
 - (d) by an authority for deduction from salary in accordance with an agreement between an employer and the Group or the officers of a Branch whereby the employer

51. ENTRY FEES, SUBSCRIPTIONS, LEVIES AND OTHER FEES

agrees to deduct subscriptions from the salary of candidates for membership or members and to pay the same into a bank account in the name of the Branch of the Group or to the Branch;

- (e) by an authority for deduction from salary of an amount equivalent to or greater than the amount payable by such members as entrance fee, subscriptions, levies and other fees to the Group under these Rules in accordance with an agreement between the member's employer and an Associated Body whereby the employer agrees to deduct subscriptions from the salary of candidates for membership or members of an Associated Body and to pay the same into a bank account in the name of the Associated Body or to the Associated Body, where there is an agreement between the Group and the Associated Body providing for the payment by the Associated body to the Group from the moneys received in this way of the amount of the entrance fees and subscriptions payable by the members to the Group. Provided that as and from the date of the amalgamation between SPSF and PSU any such agreement with an Associated Body shall operate to give an authorising member financial status in the amalgamated Union only where the agreement requires payment in full by the Associated Body to the amalgamated union, the entrance fees and subscriptions payable under the Rules of the amalgamated body;
- (f) by an authority in accordance with an arrangement approved by the Group or the officers of his Branch providing for payments by instalments deducted from a bank, building society, credit union or similar account at monthly or more frequent intervals.
- (g) By an authority providing for payments by instalments (being for an amount equivalent to or greater than the amount payable by such members as entrance fees, subscriptions, levies and other fees to the Union under these rules) deducted from a bank, building society, credit union or similar account at monthly or more frequent intervals and paid into a bank account in the name of the Associated Body or to an Associated Body where there is an agreement between the Union and Associated Body providing for the payment by the Associated Body to the Union from the monies received in this way of the amount of the entrance fees and subscriptions payable by the members to the Union;
- (h) By payment to an Associated Body of an amount equivalent to or greater than the amount payable by such members as entrance fees, subscriptions, levies and other fees to the Union under these rules where there is an agreement between the Union and the Associated Body providing for the payment by the Associated Body to the Union from the monies received in this way of the amount of the entrance fees and subscriptions payable by the members to the Union.

51.3 Each Branch Secretary shall receive and deal with such moneys at all times in accordance with these rules.

51.4 All such moneys shall be forthwith deposited by the Branch Secretary to the credit of an account in the name of the Branch of the Group maintained with a bank or a financial institution of a type which has been approved by Federal Council as being appropriate for the investment of the Group's funds.

51.5 All subscriptions shall be paid in advance.

- (a) If an authority as provided for by this Rule is in effect for the deduction of a member's subscription from salary by arrangement with the appropriate employer then the member's subscription shall fall due by instalments in the first day of each pay period.
- (b) If a member has entered into an arrangement as provided for by this rule providing for payment of subscription by instalments deducted from a bank, building society,

credit union or similar account, at monthly or more frequent intervals then the member's subscription shall fall due by instalments on the first day of each payment period.

- (c) In all other cases subscriptions shall fall due by quarterly instalments on the 1st January, 1st April, 1st July and 1st October.
- (d) Where an authority as provided for by this rule for deduction from salary or an arrangement for deduction from an account ceases for any reason to be effective then the balance, if any, of the subscription for the current quarter shall become due immediately.

51.6 Levies shall be payable within one month of the imposition of the levy or such longer period as may be determined by the Council imposing the levy.

51.7 A member whose payments of entrance fees, subscription, levies or fines are not more than three months in arrears shall be a financial member.

51.8 Notwithstanding any other provisions of this rule or elsewhere within these Rules, the entrance fees, subscriptions, levies and other fees of a member from the State of Queensland who has applied directly for membership to the Federal Council or Federal Executive through the provisions of **Rule 54.13** of Chapter C shall be paid directly to the Group.

52. SUBSCRIPTIONS, CAPITATION DUES AND LEVIES

52.1 Each Branch shall remit to the Federal Secretary national union subscriptions. These shall be paid by the end of each month for the preceding month.

52.2 Each Branch shall remit to the Federal Secretary capitation dues as determined by the Federal Council.

52.3 Where national subscriptions, capitation dues or levies are based on the number of members in a Branch, the relevant number of financial members will be the number of financial members in a Branch in the quarter in which the payment is due under **Rule 52.4**

52.4 A remittance under **Rule 52.2** shall be made as follows:

Quarter ending	Payment due by end of:
30 September	October
31 December	January
31 March	April
30 June	July

52.5 Any levy imposed by Federal Council or Federal Executive shall be expressed as an amount per member. Payment shall be paid by the Branches within three months of the decision being communicated to them.

52.6 Federal Council may approve variations to the dates by which payments are to be made for the purpose of giving effect to the terms of any legally binding agreement between the Union and an Associated Body in respect to the payment of capitation dues or national union subscriptions.

54. APPLICATIONS FOR MEMBERSHIP

53. AUDIT OF FEDERAL AND BRANCH FUNDS

- 53.1** For the purpose of this rule approved auditor means a person qualified to exercise the duties of Auditor in accordance with the requirements of the Act.
- 53.2** The Federal Fund and each Branch Fund and any other account maintained by the Group or a Branch shall be audited at least once a year by an approved auditor.
- 53.3** The Group and each Branch shall appoint an approved auditor as its auditor at least every two years and shall make provision for that auditor to have full and complete access to all its books and documents.

Part 5—ADMINISTRATION

54. APPLICATIONS FOR MEMBERSHIP

- 54.1** A candidate for membership shall make application to the Branch (or Branches) established in the State in which the candidate's employer is located.
- (a) The application shall be made in the manner and subject to any conditions specified by the rules of the relevant Branch.
- (b) The Branch shall have power to accept or reject any such application subject to the provisions of the Act and Chapter A of these rules.
- 54.2** Where there is no Branch established in the State where the candidate's employer is located a candidate for membership shall make application to Federal Council or Federal Executive which has the power to accept or reject any such application, subject to the provisions of the Act.
- 54.3** Candidates shall supply such information as to their name address classification salary and eligibility for membership as may be required by the Branch or by Federal Council or Federal Executive. If requested they shall complete and sign an application form for the Group's records.
- 54.4** Branches shall observe such directions as to the use of application forms and the compiling and maintaining of a full and accurate register of the membership of each Branch as Federal Council or Federal Executive may from time to time direct.
- 54.5** A person's application for or admission to membership shall not be invalidated due to error, omission or want of form. Every person shall be deemed to be a member who has been acknowledged to be a member by the Group or by a Branch and who has previously made application for membership or otherwise acknowledged membership. Provided that:
- (a) Federal Executive may remove from the register the name of any person who has gained admission as the result of any irregularity.
- (b) Any person removed shall have a right of appeal to Federal Council.
- 54.6** A Branch may refer an application for membership to the Federal Executive for decision.
- 54.7** An applicant may appeal to the Federal Executive where:
- (a) an application for membership has not been dealt with or accepted within three months from the date the application was received; or
- (b) where an application is rejected.
- 54.8** The applicant may appeal to Federal Council where an application has not been dealt with or accepted within three months from the date the application was received by Federal Executive. The decision of the Federal Council shall be final.
- 54.9** Every member shall be deemed to be attached to a Branch of the Group established in the State where the member's employer is located.

55. **ADMISSION TO MEMBERSHIP - MEMBERS OF ASSOCIATED BODIES**

- (a) Where there is not a Branch established in the State where the member's employer is located the member may be attached to such Branch as the Federal Council or Federal Executive may direct.

54.10 A member shall be deemed to have become a member of the Union from:

- (a) The date of admission as provided in the rules of the Branch to which the member is admitted in accordance with **Rules 54.1, 54.2, and 54.9**; or
- (b) In cases where no provision as to date of admission is made in the rules of such Branch the date of receipt of the member's application at the office of the Branch to which the member is admitted in accordance with **Rules 54.1, 54.2, and 54.9**.
- (c) In cases where an application is dealt with under **Rule 54.6, 54.7, and 54.8** an applicant shall not be or be deemed to be a member of the Union unless a decision favourable to the application is made by Federal Executive or Federal Council. If a decision favourable to the application is made the applicant's membership shall commence from the date the application was first received.

54.11 The Branch to which an application for membership is made shall inform each applicant for membership, in writing, of:

- (a) the financial obligations arising from membership; and
- (b) the circumstances, and the manner, in which a member may resign from the organisation.

54.12 Admission to Membership – Direct Application from Queensland

- (a) Notwithstanding any other provisions of these rules or those of any Branch or of any Associated Body, a candidate eligible for membership in the State of Queensland may make an application to the Federal Council or the Federal Executive, which, subject to the provisions of the Act, shall have the power to accept or reject such applications.
- (b) Candidates shall supply such information as required by Federal Council or Federal Executive including, but not limited to, their name, address, employer, classification and salary, and shall sign an application form for the Group's records.
- (c) The Federal Secretary shall maintain a membership register of all members enrolled in this manner.
- (d) The membership fees, including any subscriptions and levies, for a member enrolled in this manner shall be set by Federal Council in accordance with **Rule 3.7**.
- (e) Members enrolled in this manner will be attached to a Branch by the Federal Council or Federal Executive in accordance with **Rule 54**.
- (f) For the avoidance of doubt, the power of the Federal Council or the Federal Executive to enrol members from the State of Queensland under this rule is additional to any capacity to enrol members contained within these rules, the rules of any Branch or the rules of any Associated Body.

55. ADMISSION TO MEMBERSHIP - MEMBERS OF ASSOCIATED BODIES

55.1 Members of Associated Bodies (who are eligible for membership of the Union under Part 2 of Chapter A) may become members of the Union in accordance with the provisions of this rule.

55.2 An application for membership of the Union in respect of a member of an Associated Body may be made on behalf of such person by the Associated Body of which he/she is a member in accordance with the rules of that body.

56. BRANCH ASSOCIATES

- 55.3** An application for or admission to membership shall not be invalid due to an error, omission or want of form.
- 55.4** A person shall become a member under this rule on the date when the application made on behalf of that person by the relevant Associated Body is received by the relevant Branch.
- 55.5** No person shall become a member of the Union pursuant to this rule unless he/she has been notified by letter by the relevant Branch and Associated Body:
- (a) that on the date specified in the letter being not less than six weeks after the date of the letter an application in accordance with this rule will be made on his/her behalf to the Union; and
 - (b) of the financial obligations arising from membership and the circumstances and the manner in which a member may resign from memberships; and
 - (c) that if a written objection to the Secretary of the relevant Associated Body is received within one month of the letter then no application on his/her behalf will be made.
- 55.6** The membership records of the Associated Body of members of the Union who are also members of an Associated Body, shall be kept at the relevant Branch Office, and shall be deemed to be part of the register of members required to be kept for the purposes of **Rule 66**.
- 55.7 Interpretation**
- (a) References to an Associated Body in this rule shall (unless the context otherwise precludes it) include reference to any officer or employee of an Associated Body.
 - (b) An Associated Body shall be taken to be the agent of its members for all purposes under this rule.

56. BRANCH ASSOCIATES

- 56.1** A Branch Council shall have power to make provision for the enrolment as Associates of the Branch of persons who are not eligible for membership of the Union but who are:
- (a) retired persons who prior to retirement were members of the Union;
 - (b) widows or widowers of persons who prior to retirement or death were members of the Union or Associates of the Branch;
 - (c) trainee or cadet officers;
 - (d) students attending any tertiary institution;
 - (e) a person eligible for Associate membership in an Associated body; or
 - (f) such other persons as provided by the Branch Rules.
- 56.2** A Branch Council shall have power to:
- (a) fix and collect enrolment fees and subscriptions for Associates of the Branch;
 - (b) determine the conditions under which a person shall cease to be an Associate of the Branch;
 - (c) organise groups and committees of Associates, and provide administrative and financial support for their activities;
 - (d) provide for the participation of Associates in Provident or welfare Funds or other activities of or supported by the Branch; and

58. **TERMINATION OF MEMBERSHIP**

- (e) provide for the participation in activities of Associates (including groups or committees) of financial members of the Union who are also persons of one of the kinds described in **Rule 56.1(a) to (e)**.

56.3 Enrolment as an Associate of a Branch shall not entitle a person to any of the rights of membership.

57. RIGHTS OF MEMBERS

57.1 Every financial member of the Group shall have the right (subject to reasonable provisions in the rules of a Branch with respect to enrolment) to vote at any ballot taken for the purpose of submitting a matter to a vote of the members of the Group or of a Branch section or other division of the Group in which he or she is included.

57.2 A ballot of all financial members of the Branch on any question may be requested by a petition of twenty per cent of the financial membership of the Branch.

- (a) The Branch Secretary shall within a reasonable time request the Branch Returning Officer to hold a postal ballot of all financial members of the Branch.

- (b) The Ballot shall conclude within four weeks of the date of the Branch Secretary's request.

57.3 An unfinancial member shall not hold any office of the Group or attend or vote at any meeting, or nominate, be nominated or vote in any election or ballot.

58. TERMINATION OF MEMBERSHIP

58.1 Resignation

- (a) A member may resign from membership of the Union by notice in writing if:

- (i) the member ceases to be eligible to become a member of the Union; or the
(ii) member gives notice not less than two weeks before the resignation is to take effect.

- (b) Notice in writing of resignation shall be addressed to the Branch Secretary of the Branch of which the member resigning is a member or of which he or she has been attached.

- (c) A notice of resignation from membership of the Union takes effect:

- (i) where the member ceases to be eligible to become a member of the Union, the later of :
- on the day on which the notice is received by the Union; or
 - 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;
- (ii) in any other case the later of:
- two weeks after the notice is received by the Union; or
 - on the day specified in the notice.

- (d) Any dues payable but not paid by a former member of the Union, in relation to a period before the member's resignation or termination of membership under a Branch rule made pursuant to **Rule 58.3(a)** from the Union took effect, may be

60. HONORARY LIFE MEMBERSHIP

sued for or recovered in the name of the Union, in a court of competent jurisdiction, as a debt due to the Union.

- (e) A notice delivered to the Branch Secretary in **Rule 58.1(b)** shall be taken to have been received by the Union when it was delivered.
- (f) A notice of resignation that has been received by the Union is not invalidated by reason of the fact that it has not been addressed and delivered in accordance with **Rule 58.1(b)**.
- (g) A resignation of membership of the Union is valid notwithstanding that it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.

58.2 Group and Branch offices end on resignation

Once a resignation from membership comes into effect in accordance with Rule 58 any Group or Branch office held by the member ends.

58.3 Termination of membership

- (a) The rules of a Branch may provide that the membership of an unfinancial member
 - (i) be terminated under specified circumstances, and
 - (ii) specify conditions under which persons whose membership has been so terminated may again be entitled to be admitted as a member of the Union.
- (b) Any person whose membership has been terminated under a Branch rule as provided for under **Rule 58.3** shall be regarded as having had his or her membership of the Union terminated, and shall only be entitled to again be admitted as a member of the Union upon satisfying the conditions (if any) as specified in the relevant Branch rule.
- (c) Where the membership of a member has been terminated under a Branch rule as provided for under **Rule 58.3**, the date of effect of the termination shall be the date as provided for under the applicable Branch rule.
- (d) If the membership of an unfinancial member is terminated under Rule 58.3(a) the term of any elected office held by that member in the Branch or Group ends.

59. STANDING ORDERS

Federal Executive, Federal Council, Branch Executive and Branch Council shall respectively adopt such standing orders as will facilitate the business of each body and may vary or suspend standing orders at any time by resolution in that behalf.

60. HONORARY LIFE MEMBERSHIP

- 60.1** Any member may upon the recommendation of a Branch and by resolution of the Federal Council, be elected an honorary life member of the Group for valuable and distinguished service.
- 60.2** An honorary life member shall thereafter be entitled to all the rights and privileges of membership but shall be exempted from payment of subscriptions, levies and all other fees or charges so long as he or she remains eligible for membership.

62. RIGHTS OF OFFICERS

60.3 An honorary life member who ceases to be eligible for membership in the Union shall thereupon cease to be entitled to the rights conferred upon financial members by **Part 3 – Elections and Appointments and Rule 57 Rights of Members..**

61. OFFICIAL JOURNAL

61.1 The Federal Council shall have power to publish an official journal and/or to join with any Associated Body or Bodies for the purpose of publishing separately or jointly an official journal.

61.2 Any such official journal shall be circulated to members of the Group.

62. RIGHTS OF OFFICERS

62.1 No person elected to an office within the Group shall be dismissed from office unless they have ceased to be eligible to hold the office according to the rules or unless they are found guilty in accordance with the rules of the Union

- (a) of misappropriation of the funds of the Union;
- (b) a substantial breach of the rules of the Union;
- (c) gross misbehaviour; or
- (d) gross neglect of duty;

62.2 A member invoking **Rule 62.1** shall forward the written charge to the Federal Secretary with the conduct or circumstances alleged to justify dismissal.

62.3 The Federal Secretary

- (a) shall forward a copy of the written charge to the person against whom the charge is made; and
- (b) request them to advise whether they admit or deny the charge against them or wish to make any comment on the charges.

62.4 At the next ordinary or special meeting of the Federal Executive the charge and any reply made by the person against whom the charge is made shall be considered and the Executive may resolve that:

- (a) the person charged be called upon to show cause to Federal Council or Federal Executive why they should not be dismissed from office;
- (b) the charge should be more properly heard by a Branch. In that case, direct that the charge and any reply be forwarded to the relevant Branch Secretary to be considered at the next meeting of the Branch Executive who shall decide whether the charge shall be heard by itself or by the Branch Council; or
- (c) no further action be taken.

62.5 If the charge in question relates solely to the affairs of a Branch and to an officer who only holds office in that Branch or representing that Branch, then the Federal Executive shall refer the matter to the relevant Branch Secretary to be dealt with by that Branch in accordance with this Rule, unless the Federal Executive is of the view that the charge cannot be fairly dealt with by that Branch.

62.6 If the charge is proceeded with the person charged shall

- (a) be called upon to attend before the appropriate body at a stated time and place to show cause why they should not be dismissed from office; and
- (b) shall be furnished by the person laying the charge with particulars of the charge reasonably sufficient to enable them to know the nature of the allegation made against them and the circumstances alleged to justify dismissal.

63. BREACH OF RULES

- 62.7** The person laying the charge and the person charged:-
- (a) shall be heard in person if they desire; or
 - (b) may submit a written statement, call witnesses or evidence relevant to the charge.
- 62.8** No person shall be present at the hearing of the charge other than
- (a) the person charged;
 - (b) the person laying the charge;
 - (c) the members of the relevant body hearing the charge; and
 - (d) any witnesses called, provided that any witnesses called may only be present while such witness's evidence is being taken.
- 62.9** No person, other than a member of the relevant body, shall be present after the hearing of such charge whilst the body is deliberating upon its decision in relation to such a charge.
- 62.10** The appropriate body shall determine the matter and, subject to the provisions of these rules as to appeals, its determination will be final.
- 62.11** In making a decision under this Sub-rule, a body may remove an officer found guilty of a charge laid under this Rule from some or all of the offices held by them in the Group. In making a decision under this Sub-rule a Branch Council or Branch Executive may only remove an officer from one or more of the offices held in that Branch or representing that Branch.
- 62.12** The appropriate body may decide to issue a rebuke, caution, reprimand or warning to an officer found guilty of a charge laid under this Rule as an alternative to removal from an office or offices held by them in the Group.
- 62.13** An office-holder may by resolution of Federal Executive or Branch Executive be directed not to carry out some or all of the duties of their office pending the hearing of any charge against them. Any decision of a Branch Executive under this Sub-rule shall be limited to offices in that Branch, or representing that Branch.

63. BREACH OF RULES

- 63.1** The Federal Council and/or Federal Executive shall have power to investigate any suspected or alleged breach of these rules subject to the provisions of **Rule 62-Rights of Officers**, and to determine whether any member has committed a breach of these rules.
- 63.2** A member is guilty of a breach of these rules who:
- (a) breaches or fails to comply with any provision of these rules;
 - (b) knowingly fails to obey any lawful resolution of the Union;
 - (c) gives false or misleading information to the Union on any matter relating to the objects of the Union;
 - (d) fails, without reasonable excuse, to attend any meeting of the Group when summoned by the Council or Executive;
 - (e) obstructs the Union, the Council or the Executive in the performance of its functions pursuant to these rules;
 - (f) obstructs, insults or behaves in an offensive manner towards any officer or employee of the Union acting in the course of his or her duties;
 - (g) wrongfully holds himself or herself out, without reasonable excuse, as occupying any office or position, or as representing the Union;

65. DELEGATION OF FUNCTIONS

- (h) behaves in a drunken, disorderly or offensive manner at any meeting of the Union or in any office of the Union; or
 - (i) aids or encourages any other member in a breach of these rules.
- 63.3** A member who alleges that another member has breached these rules may lay a charge under this Rule.
 - (a) The charge shall be in written form and shall be forwarded to Federal Secretary.
 - (b) The powers of the Federal Council and the Federal Executive under this Rule shall not depend upon the laying of a charge by an individual member in accordance with this Sub-rule.
- 63.4** A member shall not be found guilty of a breach of these rules unless they have been given notice of the charge made and has been given a reasonable opportunity to present any defence to the charge.
- 63.5** If a member is found guilty of a breach of these rules the Federal Council and/or Federal Executive shall have power to:
 - (a) expel or suspend from membership;
 - (b) to impose a fine not exceeding twenty dollars; or
 - (c) issue a rebuke caution, reprimand or warning.
- 63.6** Conduct justifying expulsion or suspension under **Rule 63** must be of a character that it is inconsistent with continuing to remain a member.

64. REGULARITY OF PROCEEDINGS

- 64.1** The requirements of any rule with respect to the calling of meetings of Federal Council, Federal Executive, Branch Executive, or Branch Council, are directory and are not mandatory. An accidental omission will not itself invalidate any resolution of those bodies.
- 64.2** A body constituted under these rules may continue to function despite any vacancy, provided the requisite quorum is present.
- 64.3** No failure to give notice and no defect in any notice given calling a meeting of a body constituted under these rules shall invalidate the proceedings unless such failure or defect results in the non-attendance of some member otherwise able and willing to attend.
- 64.4** Any such failure or defect may be waived by the member entitled to the notice before, during or after the meeting.
- 64.5** All communications the Group may send to a member or office holder under these rules may be sent to the member or office holder at the last address notified by him or her to the Group.
- 64.6** No decision or proceeding of a body provided for under the rules shall be invalidated by the presence or participation of any person not entitled to be present or to participate. Provided that:
 - (a) their presence does not determine the requisite quorum and the vote of the person did not determine the decision or the result of the proceeding; and
 - (b) no objection to their presence or participation was taken at the time.

65. DELEGATION OF FUNCTIONS

- 65.1** An officer or body may delegate a function to a person or body or the holder of a particular office or position.

65.2 In determining to make delegations under this rule the officer or body shall take into account:

- (a) the most administratively appropriate arrangements;
- (b) the objective of minimising any duplication of responsibilities;
- (c) the size and any special factors relating to the body; and
- (d) the provisions of the Act

65.3 Powers of delegate

- (a) The delegation may be made either generally or as otherwise provided by the delegation.
- (b) The delegation may be exercised only in accordance with any condition to which the delegation is subject.
- (c) If the delegation is to the holder of a particular office or position it may be exercised by any person from time to time holding, occupying or exercising the functions of the office or position.
- (d) Where the exercise of the function by a person or body is dependent on the opinion, belief or state of mind of the person or body in relation to any matter and the function has been delegated that function may be exercised on the opinion, belief or state of mind of the delegate in relation to the matter.
- (e) A delegation does not prevent or limit the exercise of the function by the delegator.
- (f) A delegation may be revoked, wholly or partly, by the delegator.
- (g) A delegate may in the exercise of a delegated function exercise any other function which is incidental to the delegated function.

65.4 A delegate may sub-delegate a delegated function unless the delegation is subject to a condition prohibiting sub-delegation and this rule shall apply to a sub-delegation in the same way it applies to a delegation to a function.

65.5 The powers of the Federal Council set out in **Rules 3.7(b)(i),(ii),(iii) and (iv)** may not be delegated.

65.6 Limitation on delegation

- (a) If a function involves direct participation in the making of policy for the Union, Group or a Branch, or involves direct participation in the making, alteration, or rescission of the Rules of the Union, Group or a Branch, then it may only be delegated to a Federal or Branch Officer, or a collective body consisting of Federal or Branch Councillors.
- (b) If a function involves direct participation in the management of the affairs of the Union, Group, or a Branch, or involves direct participation in the enforcement of the Rules of the Union, Group or a Branch,
then it may only be delegated:
 - (i) to a Federal or Branch Officer, or a collective body consisting of Federal or Branch Councillors; or
 - (ii) to another person subject to the proviso that it may only be exercised in accordance with directions given by a Federal or Branch Officer, or a collective body consisting of Federal or Branch Councillors for the purpose of implementing existing policy of the Union, Group or a Branch, or decisions concerning the Union, Group or a Branch.

65.7 In this Rule:

66. REGISTER OF MEMBERS

- (a) a reference to a function includes a reference to a power, authority and duty;
 - (b) a reference to a function includes a function conferred by the Rules or by a resolution;
 - (c) a reference to the exercise of a function includes the performance of a duty.
- 65.8** The Federal Secretary shall maintain a schedule of operative delegations made under these Rules. The schedule shall be provided to Federal officers or members, upon request
- 65.9** A Branch Secretary shall maintain a schedule of operative delegations made under these rules for the Branch. The schedule shall be provided to Federal officers or members, or Branch officers or members upon request.

66. REGISTER OF MEMBERS

66.1 Group and Branch record keeping obligations

The Group, and each Branch of the Group, shall keep a register of its members showing the name and postal address of each member and shall keep all other records as are required to be maintained by organisations under the Act in the manner and at the place prescribed by the Act and Regulations.

66.2 Maintenance of the Group membership register

The Group, through each Branch of the Group, shall keep a register of its members showing the name and postal address of each member required to be maintained by organisations under the Act (“The Group Register”) in the following manner

- (a) The Group Register will be composed of each of the respective Branch registers which will be kept and maintained by the Branch Secretaries at the Registered Office of the Branch in accordance with the Act and Regulations
- (b) Each Branch Secretary is the agent of the Federal Secretary for the purpose of that part of the Group Register in the Branch.
- (c) Each Branch Secretary will ensure that part of the Group Register held in each branch is accurate and complies with the Act and Regulations
- (d) A Branch Secretary will provide to the Federal Secretary all or part of the Group Register held in a Branch in the following circumstances:
 - (i) A request from the Australian Electoral Commission
 - (ii) A request from the Fair Work Commission
 - (iii) A resolution of the Federal Council or Federal Executive.

SCHEDULE B - WAPOU BRANCHRules of the
CPSU - SPSF Group - Western Australian Prison Officers' Union (WAPOU) Branch
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RULES OF THE CPSU, SPSF GROUP WESTERN AUSTRALIAN PRISON OFFICER'S (WAPOU) BRANCH

1 - FEDERAL RULES

These rules are in addition to the federal rules of CPSU, the Community and Public Sector Union and shall apply to the SPSF Group Western Australian Prison Officers' Union Branch so far as they are not in conflict with the federal rules.

2 - NAME

The name of the Branch shall be the CPSU, the Community and Public Sector Union, SPSF Group, Western Australian Prison Officers' Union Branch, in these rules called the WAPOU Branch.

3 - REGISTERED OFFICE

The office of the WAPOU Branch shall be at 63 Railway Parade, Mt Lawley, or such other address as the Branch Council resolves.

4 - BRANCH MEMBERS

- 4.1 The members of the WAPOU Branch shall be those persons employed in a prison or prison service in the State of Western Australia, who is not a member of, or eligible to be a member of the CPSU/CSA Western Australian Branch and who has been admitted to membership of the CPSU, SPSF Group and who is eligible for membership under Rule 2 – Constitution and Eligibility for Membership of the CPSU rules.
- 4.2 Membership shall cease upon the member severing employment with a prison or prison service within the State of Western Australia.
- 4.3 A member may end membership by giving written notice of the intention to resign from the later date specified in the notice, but the member will be responsible for any subscriptions, levies and fines owing up to and including the date of ceasing to be a member of the WAPOU Branch.

5 - POWERS, CONTROL AND MANAGEMENT OF BRANCH

- 5.1 The WAPOU Branch shall have all powers vested in it in accordance with Chapter C of the federal rules and shall at all times conform to the federal rules. (Chapter C of the federal rules provide that the WAPOU Branch shall have full autonomy in matters affecting members of the WAPOU Branch only and matters concerning the participation of the WAPOU Branch in any State industrial conciliation and arbitration system).
- 5.2 Democratic control of the WAPOU Branch resides with the members who can by virtue of provisions elsewhere in the rules:
 - (a) participate in Annual General Meetings and Special General Meetings of the WAPOU Branch;

- (b) contest elections;

- (c) vote in ballots, and at membership meetings;
- (d) lay charges of misconduct against officials and other members; and
- (e) requisition Special General Meetings or Referenda.

6 - BRANCH COUNCIL

6.1 The affairs of the WAPOU Branch shall be managed by the Branch Council, which shall have power to control and manage the business and affairs of the WAPOU Branch in the State of Western Australia, subject always to the federal rules and in so far as they affect its members, and to any lawful direction of the National Officers Committee, Federal Council or Federal Executive and without limiting the generality of this power shall have power to:

- (a) make amend and rescind rules and bylaws for the regulation and government of the WAPOU Branch;
- (b) enrol in the Union any person eligible to be a member under Rule 4 – Branch Members;
- (c) fix and from time to time vary the entrance fees and subscriptions payable by candidates for membership and members of the SPSF Group attached to the WAPOU Branch;
- (d) impose levies on members attached to the WAPOU Branch;
- (e) waive in whole or part any fees, subscriptions and levies;
- (f) disburse or authorise the disbursement of monies from the WAPOU Branch fund for any purpose within the objects of the CPSU;
- (g) for the purposes of managing the Branch Fund:
 - (i) to buy, sell, rent, lease, sublet or otherwise deal with any property real or personal;
 - (ii) to enter into any contract;
 - (iii) to borrow money and mortgage or charge any of the real or personal property of the WAPOU Branch;
 - (iv) to establish any company or trust to hold, or assign on trust, any real or personal property of the Branch Fund;
- (h) appoint or remove a Branch Returning Officer qualified to act in accordance with the *Fair Work (Registered Organisations) Act 2009* (Cth) to conduct any election for which a Returning Officer is required to in connection with any Branch office in the SPSF Group;
- (i) appoint or remove a Branch Auditor qualified to act in accordance with the Act for any purpose for which an auditor is required in connection with the Branch accounts of the SPSF Group;

- (j) fix and from time to time vary the salaries and allowances or honorariums payable to Branch Officers and to confer authority on the Branch Secretary to employ, retain and terminate the employment of such staff on such terms as shall be specified in a resolution of Branch Council;

7 - BRANCH EXECUTIVE

- (k) subject to the rights of Officers under Chapter C of the federal rules, dismiss from office any person elected to an office within the WAPOU Branch who has been found guilty in accordance with the rules of the CPSU of misappropriation of the funds of the CPSU, a substantial breach of the rules of the CPSU, gross misbehaviour or gross neglect of duty, or who has ceased according to the rules of the CPSU to be eligible to hold the office provided that any such person shall have a right of appeal to the Federal Council;
 - (l) to publish and distribute Branch Publications;
 - (m) do all things necessary or convenient to the exercise of the foregoing powers.
- 6.2 The Branch Council shall consist of:
- (a) the Branch Executive Officers; and
 - (b) the Delegates to Branch Council elected by each Sub-Branch on the basis of one delegate for each hundred financial members or part thereof.
- 6.3 Branch Council shall meet at least every two months or at such other times as Branch Council or Branch Executive shall deem necessary and shall be convened by notice signed by the Branch Secretary.
- 6.4 At every meeting of Branch Council the quorum shall be twelve (12).

7 - BRANCH EXECUTIVE

- 7.1 Between meetings of Branch Council the management of the WAPOU Branch shall be vested in the Branch Executive which shall be the committee of management of the Branch and pending the first meeting of Branch Council shall have all such powers except the power to make, amend or rescind rules or any power expressly reserved to itself by decision of Branch Council.
- 7.2 The Branch Executive shall meet at least every two months between meetings of Branch Council and whenever required by the Branch President after consultation with the Branch Secretary.
- 7.3 The Branch Executive shall consist of:
- (a) the Branch President;
 - (b) the Branch Vice-President;
 - (c) the Branch Secretary;
 - (d) the Branch Assistant Secretary
 - (e) the Branch Treasurer; and
 - (f) three (3) Executive Members.
- 7.4 An Executive Officer may attend and speak at any meeting in the WAPOU Branch held under these rules.

- 7.5 Members of the Branch Executive shall be elected for a period of four (4) years, by the whole of the financial membership of the WAPOU Branch.

8 – DELEGATES TO BRANCH COUNCIL

- 8.1 For the purpose of determining the number of delegates to be elected in accordance with sub-rule 6.2 (b) hereof, the number shall be determined in accordance with the number of financial members in each Sub-Branch at the end of the quarter of the year preceding the calling for nominations for election to the Branch Council.
- 8.2 Delegates elected by each Sub-Branch shall be elected every four years with Northern Region Sub-Branches elections and elections for Sub-Branches other than Northern Region Sub-Branches being held separately in alternative even-numbered years.
- 8.3 For the purpose of this rule the Northern Region Sub-Branches shall be Roebourne Regional Prison, Broome Regional Prison, Greenough Regional Prison, Eastern Goldfields Regional Prison, Hakea Prison, Bandyup Women’s Prison and West Kimberley Regional Prison.
- 8.4 For the purposes of this rule, Sub-Branches other than Northern Region Sub-Branches are those that are not listed in Rule 8.3.
- 8.5 A Delegate to Branch Council transferred to another Sub-Branch other than on a temporary basis for less than six (6) months shall cease to be eligible to hold office in such circumstances.
- 8.6 With the exception of Delegates to Branch Council who reside fifty kilometres or more away from the Perth Metropolitan Area, a Delegate to Branch Council or Branch Executive who, without good and sufficient reasons acceptable to Branch Council, absents themselves from three (3) consecutive meetings, may with the consent of a General Meeting be removed from office and the vacancy filled as provided for under these rules.

9 – CASUAL VACANCIES

- 9.1 Should any member of Branch Council cease to be a member of Branch Council for any reason other than because the period for which such member of Branch Council was elected has expired, the powers and duties of the Branch Council shall not be invalidated because of such vacancy.
- 9.2 Casual vacancies shall be filled in accordance with the elections provisions of these rules, provided that any person elected shall hold office for the balance of the unexpired term of office.
- 9.3 A Sub-Branch may nominate a proxy Delegate to Branch Council to fill a temporary vacancy for the period up until an election is held to fill the vacancy.

10 - BRANCH FUND

- 10.1 The Branch Fund shall consist of:
- (a) any real or personal property of which the WAPOU Branch of the SPSF Group by the rules or by any established practice not inconsistent with the rules, has, or in the

absence of any limited term lease, bailment or arrangement, would have the right of custody, control or management;

12 - ANNUAL GENERAL MEETING

- (b) the amounts of entrance fees, subscriptions, fines, levies and other fees received by the WAPOU Branch, less so much of the amount as is payable by the WAPOU Branch to the CPSU;
 - (c) any interest, rents or dividends derived from the investment of the Fund;
 - (d) any superannuation or long service leave fund operated or controlled by the WAPOU Branch for the benefit of its officers or employees;
 - (e) any fund operated or controlled by the WAPOU Branch for the benefit of its members;
 - (f) any property acquired wholly or mainly by expenditure of the monies of the Fund or derived from other assets of the Fund; and
 - (g) the proceeds of any disposal of parts of the Fund.
- 10.2 Cheques and other instruments drawn against funds deposited to the credit of the Branch Fund with banks or other financial institutions shall be signed by the Branch Secretary or a person delegated for the purpose by the Branch Secretary, and one other person who is either:
- (a) the Branch Treasurer;
 - (b) another member of the Branch Executive; or
 - (c) a person appointed by Branch Council for the purpose of signing cheques and other such instruments.

11 - ANNUAL REPORT

- 11.1 A report by the Branch President and Branch Secretary of the activities of the WAPOU Branch during the preceding financial year, together with the financial statements for the Branch Fund, and following approval by Branch Council, shall be presented at the Annual General Meeting and made available to members on the Union's web site. A summary of the report, approved by the Branch Secretary, shall be published in an official publication to all members. A full copy of the report shall be provided to any member who so requests.

12 - ANNUAL GENERAL MEETING

- 12.1 The Annual General Meeting of members of the WAPOU Branch shall be held in the first quarter of each financial year.
- 12.2 At least seven days notice of the date, time and place for the holding of any Annual General Meeting of members of the WAPOU Branch shall be published in an official Branch publication directed to all members and in a Perth daily paper.
- 12.3 The text or details of any motions of which notice has been given shall appear in the notice published in an official Branch publication.
- 12.4 No business shall be transacted at the Annual General Meeting other than that stated in the notice convening the meeting.

13 - SPECIAL GENERAL MEETINGS

- 12.5 The Branch Council shall determine what additional items to include on the agenda in sufficient time to allow the agenda to be published at least 7 days prior to the Annual General Meeting.
- 12.6 A quorum for an Annual General Meeting shall consist of twenty (20) members.
- 12.7 If, within a quarter of an hour from the time appointed for the meeting a quorum of members be not present, it shall stand adjourned until another meeting can be arranged; and at such adjourned meeting the members there present will dispose of all business on the notice paper.
- 12.8 The President may, with the consent of the members present, adjourn the meeting from time to time and from place to place, but no business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 12.9 Any resolution formally carried at a general meeting of the WAPOU Branch shall be an instruction to the Branch Council and Executive Officers of the Branch; provided that the Branch Council, after mature consideration, may defer action on any such resolution, pending the calling of a Special General Meeting, within one month, to further discuss the subject. If the resolution be re-affirmed by the Special General Meeting, the Branch Council shall then carry out the direction of such meeting.

13 - SPECIAL GENERAL MEETINGS

- 13.1 Special General Meetings shall be convened:
- (a) whenever it is considered necessary by the Branch Council; or
 - (b) on the receipt by the Branch Council of a requisition in writing stating the objects and signed by not less than one hundred (100) members of the Branch; or
 - (c) by the Branch Secretary in the event only of there being no quorum of at least 12 delegates or 30%, whichever is lesser, of the Branch Council competent to vote at a Branch Council meeting held for the purpose of considering the circumstances as set forth by paragraphs (a) and (b) above,

upon receipt of such requisition a Special General Meeting shall forthwith be convened by the Branch Secretary to be held within 28 days from the receipt of such requisition, but if same be not convened within 14 days from the date of receipt the requisitioners may themselves convene a meeting.

- 13.2 No business shall be transacted at a Special General Meeting other than that stated in the notice convening the meeting, and no motion considered, or other business transacted, at any meeting which is not included within the objects and purposes for which the meeting is convened and no amendments shall be allowed upon any motion contained in the notice convening any meeting not directly pertinent thereto.
- 13.3 Whenever a Special General Meeting shall lapse for the want of a quorum or by the resolution of the members present be adjourned to a future day, notice thereof shall be given by circular or advertisement as determined by the chairperson of the meeting.

14 - REFERENDUM

- 13.4 If, within a quarter of an hour from the time appointed for the meeting a quorum of members be not present, the meeting if convened upon the requisition of members, shall be dissolved; in any other case, it shall stand adjourned to another date and if at such adjourned meeting a quorum of members be not present, it shall be adjourned sine die.
- 13.5 The provisions of Rule 12, paragraphs 12.2, 12.3, 12.6 and 12.8 shall also apply to Special General Meetings.
- 13.6 Any resolution carried at a Special General Meeting may, if the Branch Council so decide be referred for determination by a referendum of all the financial members of the WAPOU Branch.
- 13.7 The result of the ballot or, where no ballot is to be conducted, any resolution carried at a Special General Meeting, shall be binding on the Branch Council.

14 - REFERENDUM

- 14.1 A referendum to obtain the view of all financial members of the WAPOU Branch on any question governing the affairs of the WAPOU Branch may be initiated by a:
- (a) resolution of the Branch Council; or
 - (b) resolution of an Annual General Meeting or Special General Meeting to refer a motion before it to a referendum; or
 - (c) requisition signed in writing by twenty (20) percent of the financial members of the WAPOU Branch.
- 14.2 A requisition calling for a referendum shall be in the form of an affirmative question and shall be accompanied by an objective statement of the facts and arguments in support of the question and shall be submitted to the next meeting of the Branch Council who shall:
- (a) agree to the question, in which case the decision shall be implemented immediately; or
 - (b) not agree to the question, in which case it shall thereupon be referred to a referendum of financial members accompanied by the statement provided by the requisitioners in support, provided that the Branch Council may determine that several referenda shall be conducted by a single ballot of financial members.
- 14.3 The arrangements for the taking of a referendum shall be made by the Branch Executive who shall:
- (a) appoint for the conduct of the referendum a Returning Officer and such Assistant Returning Officers and Scrutineers as it deems necessary; and
 - (b) prepare material to accompany the question, which in the case of a referendum not agreed to by the Branch Council shall include an objective statement of the arguments against the question.
- 14.4 The Returning Officer shall:
- (a) issue a ballot paper, and accompanying material, to each financial member of the WAPOU Branch;

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- (b) supervise the counting of the returns; and
 - (c) declare the final result of the ballot as a whole in writing to the Branch Secretary.
- 14.5 Any question put pursuant to any provision of this Rule shall be determined by a simple majority.
- 14.6 When a question is carried in the affirmative by a referendum it shall be put into effect forthwith.
- 14.7 No question substantially the same in substance or effect, shall be resubmitted to referendum within a period of two years from the declaration of a ballot, provided that this provision shall not preclude the Branch Council from submitting any question to referendum at any time.

15 - DUTIES OF MEMBERS

- 15.1 Every person applying for membership in so doing agrees to be bound to comply with the rules for so long as they are a member and undertakes to work for the interests of the Union and its members collectively and within the democratic structures provided.
- 15.2 Decisions of meetings of members, Branch Council and other bodies, called and conducted in accordance with these rules are binding on members. This does not prejudice the right of members to seek to vary such decisions within the framework of the Union and its rules.

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- 16.1 The Branch President shall:
- (a) preside at all meetings of Branch Council, Branch Executive and any meetings in the WAPOU Branch that they attend, and sign the minutes thereof;
 - (b) enforce the rules, Union and WAPOU Branch policies and standing orders, and have control of meetings at which he or she presides, and shall use all necessary power to secure and enforce order and expedition in the conduct of the business and good order of the members thereat;
 - (c) in consultation with the Branch Secretary determine the date, time and place of meetings of Branch Council and Branch Executive whenever such date, time and place has not been determined by Branch Council or Branch Executive;
 - (d) exercise a deliberative vote if he or she so desires at meetings of Branch Council and Branch Executive;
 - (e) ensure, as far as possible, that the rules of the WAPOU Branch are performed and observed by officers and members of the WAPOU Branch;
 - (f) request and receive an explanation from any officer or member of the WAPOU Branch in any case where the Branch President believes that the rules of the WAPOU Branch have not been performed or observed and report thereon to Branch Executive and Branch Council;

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- (g) generally act to safeguard the reputation, unity, autonomy and property of the WAPOU Branch;

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- (h) be an ex-officio member of all committees of the WAPOU Branch;
- (i) act in conjunction with the Branch Secretary and at least two other members of the Branch Executive in all matters of urgency.

16.2 The Branch Vice-President shall:

- (a) assist the Branch President in the performance of the duties of the Branch President;
- (b) in the absence of the Branch President, or whenever the Branch President requests, or Branch Council or Branch Executive instructs, perform the duties of the Branch President or such of those duties as may be specified in each request or instruction;
- (c) in the absence of the Branch Treasurer, or whenever Branch Council or Branch Executive instructs, perform the duties of the Branch Treasurer or such of those duties as may be specified in each request or instruction; and
- (d) attend all meetings of the Branch Council and Branch Executive.

16.3 The Branch Treasurer shall:

- (a) furnish to the Branch Council at each ordinary meeting a statement showing the financial position of the WAPOU Branch;
- (b) present to the Branch Council such reports as may have been supplied by the Auditors;
- (c) in the absence of the Branch President and the Branch Vice- President, or whenever the Branch President requests, or Branch Council or Branch Executive instructs, shall perform the duties of the Branch President or such of those duties as may be specified in each request or instruction; and
- (d) attend all meetings of the Branch Council and Branch Executive.

16.4 The Branch Secretary shall:

- (a) be the executive officer of the WAPOU Branch and, subject to Rule 6, be responsible for the administration of the WAPOU Branch, the management of the Branch Office and the direction of the employees of the WAPOU Branch;
- (b) attend all General Meetings and meetings of the Branch Council or Branch Executive;
- (c) attend to and keep a copy of all correspondence;
- (d) keep minutes of all meetings and record business transacted by the WAPOU Branch, circulate such minutes in draft where required and present a true copy of minutes at a subsequent meeting of the same body;
- (e) convene all General Meetings and summon members of the Branch Council and Branch Executive to all meetings;

16 - DUTIES OF BRANCH EXECUTIVE OFFICERS

- (f) keep a register of all members of the WAPOU Branch and the Sub-Branch to which members are assigned;

- (g) conform to all the requirements of legislation required to be observed by the WAPOU Branch and where necessary and appropriate submit industrial disputes to conciliation and arbitration in accordance with the practices and procedures set out in the legislation;
- (h) keep proper books of account of the WAPOU Branch and see to the preparation of an annual balance sheet and statement of receipts and payments and income and expenditure disclosing the true financial position of the WAPOU Branch and submit same together with all books and vouchers or records required for audit to the WAPOU Branch and in particular:
 - (i) be accountable for all monies received by the WAPOU Branch;
 - (ii) ensure prompt payment of WAPOU Branch monies into the appropriate bank account of the WAPOU Branch;
 - (iii) be accountable for all monies expended from Branch funds;
 - (iv) ensure cheques drawn upon the Branch fund in payment of accounts are correct to be paid and that all cheques are countersigned;
 - (v) not make any disbursement directly out of monies received before being banked;
 - (vi) produce any books and records for inspection at all reasonable times when demanded by the Branch Council;
 - (vii) produce any financial records for inspection when demanded by the Auditor or Branch Treasurer;
- (i) discharge all such other duties and services as may be assigned by the Branch Council or Branch Executive;
- (j) not pay, lend or otherwise appropriate any of the funds of the Branch for any cause or purpose whatsoever unless so authorised by the Branch Council;
- (k) not make any disbursement directly out of monies received before being paid into the bank.
- (l) be an ex-officio member of all committees of the WAPOU Branch; and
- (m) act in conjunction with the Branch President and at least two other members of the Branch Executive in all matters of urgency.

16.5 The Branch Assistant Secretary shall:

- (a) assist the Branch Secretary with the discharge of their duties; and
- (b) act on behalf of the Branch Secretary when he or she is absent.

16.6 The Branch Executive Members shall attend all meetings of the Branch Council and Branch Executive.

- 16.7 With the exception of the Branch Secretary, where a Branch Officer is unable to perform a duty of office, the Branch Executive may authorise one of the Executive Members or member of Branch Council to perform that duty.

17 – (removed)

18 - DUTIES OF DELEGATES TO BRANCH COUNCIL

Delegates to Branch Council shall:

- 18.1 distribute Branch Council agendas, minutes and other reports to members;
- 18.2 promote knowledge and an understanding of CPSU policies and activities;
- 18.3 advise the Branch Council and Branch staff of the views of the members in the electorate and any important issues or changes in their Sub-Branch;
- 18.4 make representations to management and take action in accordance with these rules and Branch policy to resolve matters affecting members in their Sub-Branch;
- 18.5 refer unresolved industrial matters, or matters affecting members outside the delegates' own Sub-Branch, to Branch industrial staff and/or to the Branch Council;
- 18.6 advise members of their industrial entitlements;
- 18.7 protect the working conditions and award rights of members in their Sub-Branch;
- 18.8 strengthen Union organisation in the electorate by recruiting potential members, and informing members about actions taken on their behalf;
- 18.9 administer the business of their Sub-Branch and preside at all Sub-Branch meetings; and
- 18.10 attend all meetings of the Branch Council.

19 – PRISON BRANCHES

- 19.1 There should be a Sub-Branch of the WAPOU Branch at all institutions and all members shall be assigned to a Sub-Branch. To form a Sub-Branch of the WAPOU Branch an application by financial members at an institution shall be forwarded to the Branch Council who shall have power to approve or reject such application.
- 19.2 Each Sub-Branch shall be administered by the Branch Delegate to Branch Council who shall preside at all meetings of the Sub-Branch, authorise the taking of fullest minutes of proceedings and attend to all correspondence.
- 19.3 Each Sub-Branch shall keep all documents and books relating to the Sub-Branch and shall further discharge other such duties as may be allotted from time to time by the Sub-Branch and pay the strictest attention to the interests of the Sub-Branch.
- 19.4 Each Sub-Branch shall pass resolutions for its own government, provided always that such resolutions do not conflict with the Rules, policies or decisions of any General Meeting, Branch Council or Branch Executive Meeting.

20 - MISCONDUCT

- 19.5 Each Sub-Branch shall keep a Standing Order Book to regulate the activities of the Sub-Branch, all orders contained in the Standing Order Book must have the prior approval of the Branch Council, who shall determine whether said orders are constitutional and in the best interests of the Union as a whole.
- 19.6 Sub-Branches shall have meetings when considered necessary or in accordance with established Sub-Branch policy in respect to such matters and the minutes of all such meetings to be forwarded to the Secretary within fourteen (14) days.
- 19.7 Sub-Branches shall have the authority, if considered necessary to elect a number of committee persons to assist the Branch Elected Delegate/s to conduct the affairs of the Sub-Branch. Elections for local Committee, where applicable, shall be held yearly at the Sub-Branch Annual Branch Meeting. All Sub-Branch elections must be by secret ballot.
- 19.8 Where in the opinion of the Branch Council a Sub-Branch fails to operate in the best interests of the WAPOU Branch or the Union as a whole, the Branch Council shall have the power to intervene in the affairs of the Sub-Branch and declare all positions vacant and conduct new elections to re-establish the Sub-Branch.
- 19.9 Each Sub-Branch shall designate one meeting a year as the Annual Sub-Branch Meeting. At that meeting the Sub-Branch shall elect the local committee (if any) and determine the number of members that will form a quorum for Sub-Branch meetings for the forthcoming twelve months, having regard to the membership at the Sub-Branch and the average attendance at Sub-Branch meetings.

20 - MISCONDUCT

- 20.1 A member of the WAPOU Branch may be charged for:
- (a) misappropriation of the funds of the Union;
 - (b) a substantial breach of the rules or duties of members;
 - (c) fraudulent, dishonest, disgraceful or other conduct deemed to injure the Union or to bring it into discredit;
 - (d) failing to declare a pecuniary or other conflict of interest; or
 - (e) gross neglect of duty.
- 20.2 Charges may be laid by:
- (a) a member of the WAPOU Branch;
 - (b) the Branch Council or Branch Executive; or
 - (c) a Branch Officer.
- 20.3 Charges shall be delivered to the Branch Secretary in writing and signed by the person laying the charge, detailing:
- (a) clearly and specifically the alleged misconduct;

21 - CENSURE MOTIONS

- (b) the persons involved;
 - (c) any witnesses;
 - (d) the date or dates of the occurrence of the offence; and
 - (e) particulars of alleged facts on which the charge is based.
- 20.4 As soon as a charge is laid under this rule, no discussion of the matter shall take place at any Branch meeting held under these rules until such time as the charge is finally dealt with.
- 20.5 The Branch Secretary shall:
- (a) within 7 days forward a copy to the member charged along with a written request for the member to reply in writing within 7 days of receipt, admitting or denying the charge or to make any comment thereon;
 - (b) following receipt of the reply, or the expiry of the time to reply, place the charge and any response before the Branch Executive; and
 - (c) offer the member the option to appear before Branch Executive to respond to the charge.
- 20.6 The Branch Executive shall determine that the:
- (a) charge does not warrant further action; or
 - (b) member be summoned to appear before the Branch Council to answer the charge.
- 20.7 Branch Council, if the member does not appear, or if dissatisfied with the member's explanation, may, subject to the rights of officers under Chapter C of the Federal rules:
- (a) expel the member, subject to revision at the next ensuing General Meeting of the WAPOU Branch;
 - (b) suspend the member for a certain time;
 - (c) inflict such fine not exceeding \$100.00 as may seem to meet the merits of the case; and/or
 - (d) censure the member.
- 20.8 No member who has been expelled shall be re-admitted without the prior consent of Branch Council, and such consent shall be subject to confirmation at the next General Meeting of the WAPOU Branch.

21 - CENSURE MOTIONS

- 21.1 A motion of 'no confidence', reprimand, or other form of censure of a Branch Officer or Delegate to Branch Council may be moved at a meeting of Branch Council provided that:
- (a) notice of such motion was given at a previous meeting;

23 - ELECTIONS

- (b) notice of intention, including the substantial details of the allegation, are given in writing to the officer at least 21 days prior to the meeting; and
 - (c) the officer is given adequate time and opportunity to reply to the allegation at the meeting.
- 21.2 A motion of 'no confidence', reprimand, or other form of censure of a Delegate to Branch Council may be moved at a meeting of the members of the Sub-Branch which the Branch Councillor represents provided that:
- (a) notice of such meeting, including the motion, is given to all members or delegates eligible to vote at least 21 days prior to the meeting;
 - (b) notice of intention, including the substantial details of the allegation, are given in writing to the officer at least 21 days prior to the meeting; and
 - (c) the officer is given adequate time and opportunity to reply to the allegation at the meeting.
- 21.3 A motion of 'no confidence' shall be carried if two-thirds of those present and entitled to vote, vote in favour.

22 - EXECUTION OF AGREEMENTS AND DOCUMENTS

- 22.1 Agreements and documents may be executed on behalf of the WAPOU Branch by the Branch Secretary whose signature shall be attested to by one other member of the Branch Executive and any such document so executed shall be and be deemed to be executed on behalf of the WAPOU Branch and with its authority.
- 22.2 Documents required to be executed in accordance with provisions of federal or state industrial legislation shall be executed by the Branch Secretary or by any person delegated for the purpose by the Branch Secretary unless otherwise specified by the relevant Act.

23 - ELECTIONS

- 23.1 Every election required by these rules shall be conducted in accordance with Chapter C of the Federal Rules and by the proportional preferential voting system as defined in the schedule to Chapter C of the Federal Rules.
- 23.2 WAPOU Branch policy may provide for candidates' information of a prescribed form to accompany ballot papers issued in the conduct of a WAPOU Branch election.
- 23.3 The Branch Secretary and Branch Assistant Secretary shall be elected by secret postal ballot of the whole of the financial membership of the WAPOU Branch for a term of four (4) years. Nominations for the position of Branch Secretary and Branch Assistant Secretary shall not be limited to financial members of the WAPOU Branch, but where a person from outside the Branch is elected to either position, they will subsequently be deemed to possess all the rights and privileges of a member of the Branch. Employees of the Associated Body are eligible to be nominated for and hold these positions.
- 23.4 The Branch President, Branch Vice-President and Branch Treasurer and three (3) Executive Members shall be elected by secret postal ballot of the whole of the financial membership of the WAPOU Branch for a term of four (4) years.

26 - REGISTER OF MEMBERS

- 23.5 A person holding the office of Branch President, Branch Vice-President, Branch Treasurer, or Executive Member shall not be an employee of the WAPOU Branch.
- 23.6 Delegates to Branch Council shall be elected for a four (4) year term by secret postal ballot by the financial members assigned to their Sub-Branch.

24 - STANDING ORDERS

Branch Council shall adopt Standing Orders governing the conduct of all meetings in the WAPOU Branch.

25 - TRANSITIONAL PROVISIONS

These rules come into effect upon their certification by the Fair Work Commission. The first elections for Branch Executive Officers, delegates to Branch Council, delegates to Federal Council and Federal Vice President and Branch Representative will be held within three months of these rules coming into effect.

- 25.2 Should these rules come into effect before 1 February 2014, the next elections for Branch Executive Officers will be held so that the result is declared no earlier than 1 May 2014 and no later than 30 June 2014 and thereafter in accordance with Rule 23.
- 25.3 Should these rules come into effect before 1 February 2014, the next elections for delegates to Branch Council will be held so that the result is declared no earlier than 1 May 2014 and no later than 30 June 2014, with the next election of delegates from the Northern Region Sub-Branches to be declared no earlier than 1 May 2016 and no later than 30 June 2016, and the next election of delegates from the Sub-Branches other than the Northern Region to be declared no earlier than 1 May 2018 and no later than 30 June 2018, and thereafter in accordance with Rule 8.
- 25.4 Should these rules come into effect before 1 February 2014, the next elections for delegates to Federal Council shall be held so that the result is declared no earlier than 1 June 2014 and no later than 25 August 2014 and thereafter in accordance with Rule 54B of Chapter C of the Federal Rules.
- 25.5 Should these rules come into effect before 1 February 2014, the next election for Federal Vice-President and Branch Representative shall be held so that the result is declared no later than 31 December 2014 and thereafter in accordance with Rule 55B of the Federal Rules.
- 25.6 Until the first elections in accordance with this rule are held and declared, management of the WAPOU Branch will be vested in the Executive of the Western Australian Prison Officers' Union.

26 - REGISTER OF MEMBERS

The WAPOU Branch shall keep a register of its members, showing their name and postal address, and shall keep all other records as are required by the *Fair Work (Registered Organisations) Act 2009* and the *Fair Work (Registered Organisations) Regulations 2009*.

END OF RULES

FAIR WORK COMMISSION

Fair Work (Registered Organisations) Act 2009

Application under s159 to amend the rules of an organisation

IN THE MATTER OF:

**AN APPLICATION TO ALTER THE CHAPTER C RULE BOOK OF THE CPSU, the
COMMUNITY AND PUBLIC SECTOR UNION (“CPSU”)**

**19 DECEMBER 2018 DECLARATION OF THOMAS LYNCH TO SUPPORT AN
APPLICATION TO ALTER THE CHAPTER C RULE BOOK OF THE CPSU**

I, Thomas Lynch, the Joint National President of the CPSU, of 157 Collins Street Hobart in the State of Tasmania solemnly and sincerely declare and affirm:

A. INTRODUCTION

1. I am the Federal President of the State Public Services Federation of the CPSU (SPSF) and the Joint National President of the CPSU. I make this declaration of my own knowledge and belief unless I otherwise indicate.
2. I am authorised to give the notice of particulars of alterations to the rules of the CPSU which has been filed with this declaration, and to make this declaration, as required by s139 of the *Fair Work (Registered Organisations) Act 2009* and Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009*
3. I have attached to this declaration as “OCTOBERTENDRAFT” a full copy of the Chapter C rule book with alterations sought marked as tracked changes. OCTOBERTENDRAFT is from hereon referred to as the “Amended Chapter C”. If this application is successful, the Amended Chapter C will replace the rulebook dated 12 April 2018 in R2017/720.

4. What follows is an account of the actions taken by the CPSU to approve the alterations in the Amended Chapter C. Based on this declaration and the notice of particulars, the General Manager should be satisfied the Amended Chapter C is made in accordance with the rules of the CPSU.

B. STEPS REQUIRED FOR APPROVAL OF THE CHAPTER C RULE ALTERATIONS

5. The requirements for approval of alterations to the Chapter C rules are provided for in the following rules:

Relevant Federal Council powers and procedural obligations

6. The Federal Council is the supreme decision-making body of the SPSF Group of the CPSU. Chapter C Rule 3.7 empowers the Federal Council of the SPSF Group to approve Chapter C rule alterations:

Federal Council Powers

- (a) The affairs of the Group shall be governed by a Federal Council which subject to **Rule 3.9(f)** is the supreme governing authority and Committee of Management of the Group
 - (b) Federal Council shall have power to do all things necessary to achieve the objects of the Union and shall exercise all of the powers of registered organisations including but not limited to the following:
 - (i) Recommend to the National Officers Committee (NOC), or agree to or reject NOC recommendations on the making, amendment and rescission of any of the rules of the Group or of the Union;
7. Chapter C Rule 3.8 provide the following procedural obligations for the convening of an ordinary Federal Council Meeting

3.8 Federal Council- Ordinary Meetings

- (a) Ordinary meetings of the Federal Council will normally be held annually. Meetings may be conducted by
 - (i) personal attendance;
 -
- (b) The Federal Council will determine the date, time, and location of a meeting, and the means by which a meeting will be conducted.
- (c)
- (d)

8. Rules 3.2 to 3.5 of Chapter C provide a mechanism by which weighted votes are allocated to Federal Council delegates according to the number of members in each Branch.
9. Prior to the Federal Council and Under Rule 3.3(e) of Chapter C the Federal Secretary Karen Batt notified each Branch of the total number of votes to be exercised by delegates from each Branch. The notification was as follows:

Branch	No of members	No of Delegates [Rule 3.2(a)]	No of Votes: 1 per thousand or part [Rule 3.3(a)(i)]
NSW	34,392	9	35
VIC	13,532	5	14
WA	12,472	5	13
SA	11,234	5	12
TAS	3,195	4	4
WAPOU	2734	4	3
Fed Sec [Rule 3.5]			1

10. Rule 3.9 of Chapter C provides for the conduct of business of ordinary meetings of Federal Council including:

(c) **Agenda items**

....

- (iii) The Federal Secretary shall provide each Branch Secretary and Federal Councillor with at least thirty (30) days' notice of the agenda.

(iv)

- (v) The notice requirements of this sub-rule are directory and not mandatory.

Relevant National Officers Committee powers and procedural obligations

11. Chapter C rule alterations must also be approved by the National Officers Committee ("NOC") of the CPSU on the recommendation of the SPSF Group Federal Council under Chapter A rule 15(d)(iii):

- (iii) alterations to the Rules of Chapter C shall be approved by the NOC, by a majority of the votes exercisable in accordance with rule 16 in favour, only on the recommendation of the SPSF Group Federal Council.

12. The procedure for the NOC is set out in Chapter A rule Rule 17

- (a) The National Officers Committee shall meet not less than four times in each year.
- (b) Meetings of the NOC may be convened: -
 - (i)
 - (ii)
 - (iii) by the Joint National Secretaries acting together.
- (c) At meetings of the NOC a quorum will comprise a majority of each of the Groups representatives or their proxies.
- (d)
- (e) In addition to meetings of the NOC at which members are assembled at one location, meetings of the NOC may be conducted by telephone or other electronic hook-up and out-of-session voting may be conducted by post, facsimile or other forms of electronic communication.
- (f) In convening meetings of the NOC, the Joint National Secretaries shall give reasonable notice to all members of the NOC.

C. CPSU EXECUTIVE BODY APPROVALS OF THE AMENDED CHAPTER C

Ordinary meeting of the Federal Council of the SPSF Group

13. The Federal Council of the SPSF Group had its 2017 face to face ordinary meeting on 7 December 2017. At that meeting the Federal Council approved a Schedule of Meetings for the 2018 Calendar year. This included the location and date of the 2018 Federal Council. It was set for Thursday 6 December 2018 in Melbourne. In doing so the Federal Council exercised its power under Chapter C Rule 3.8(c).

14. On 1 November 2018 the Federal Secretary, in accordance Chapter C Rule 3.9(iii) caused Pam Spencer, the Executive Assistant to the Federal Secretary, to send an e-mail to each Branch Secretary and Federal Councillor. That e-mail contained venue details and attached the Agenda for the Federal Council. It also contained a link to a copy of the Amended Chapter C together with a memorandum dated 1 November 2018 which I had prepared with Mark Perica, the Senior Legal Officer of the Group.

The memo explained the proposed amendments and contained the text of a resolution which was to be put to the Federal Council on 6 December 2018.

15. I chaired the face to face Federal Council on Thursday 6 December 2018. It was held at the Rydges Hotel in Melbourne from 9AM to 4PM. The meeting was quorate. Delegates were present from each Branch of the SPSF Group exercising all of the 82 votes allocated to the delegates of each of the Branches (see paragraph 9) in accordance with Chapter C Rule 3.3 and 3.4.

16. Item 4.2 on the Agenda was the Senior Legal Officer's report which contained a sub-item which was the proposed resolution with respect to the Amended Chapter C. Mark Perica gave an oral summary of the memorandum that had been sent on 1 November 2018. There was then some discussion about the proposed rule changes. Following that discussion, a vote was taken by a ballot for or against the following resolution:

"The Federal Council having read the memorandum of Mark Perica and Tom Lynch dated Thursday 1 November 2018 ("the FC memo") resolves to:

- 16.1. Approve the proposed rule changes contained in the marked-up copy of the "OctoberTenDraft" sent under cover of an e-mail dated Thursday 1 November 2018 together with the FC memo;
- 16.2. Exercise its power under Rule 3.7(i) to recommend the proposed rule change to the National Officers Committee of the CPSU;
- 16.3. Instruct the Federal Secretary to take all necessary steps to place the proposed rule changes before the NOC for its consideration on the recommendation of the Federal Council.

17. The Federal Council voted unanimously in favour of this resolution. It follows that, at its 6 December ordinary meeting, the Federal Council of the SPSF Group approved the proposed alterations within Amended Chapter C and recommended those proposed alterations to the National Officers Committee of the CPSU.

National Officers Committee of the CPSU

18. In late November 2018, the Joint National Secretaries conferred and directed Mark Perica, the Senior Legal Officer of the SPSF Group, to give notice to each of the National Officers Committee members of a NOC by teleconference. This was an exercise of their power under Rule 17(c) of Chapter A.
19. On the morning of Monday 3 December 2018, Mark Perica gave this notice by an e-mail to each National Officer of a meeting by teleconference at 4.30PM on Monday 10 December 2018. That e-mail attached (amongst other things) a draft agenda, the Amended Chapter C, and a memorandum from myself and Mark Perica dated 27 November 2018, which explained the proposed alterations and contained the text of a resolution concerning the Amended Chapter C which would be proposed at the teleconference.
20. As I have declared at paragraph 17, on Thursday 6 December 2018, the Federal Council had approved the rule alterations within the Amended Chapter C and recommended them to the National Officers Committee.
21. On Friday 7 December 2018 Mark Perica sent an e-mail to each NOC member informing them of the unanimous vote of the Federal Council recommending the proposed Chapter C rule changes to the NOC and confirming “the condition precedent for the NOC to exercise its power under Chapter A Rule 15(d)(iii) was made out (should the NOC decide to exercise it)”
22. I chaired the teleconference that was held on Monday 10 December 2018. The meeting was quorate. Item 3(b) was the Chapter C resolution. The following resolution was put by Karen Batt, the Federal Secretary of the SPSF Group and was seconded by Nadine Flood, the National Secretary of the PSU Group:

“The National Officers Committee having read the memorandum of Tom Lynch and Mark Perica dated Tuesday 27 November 2018(“the memo”):

- 22.1. Notes the recommendation of the Federal Council of the SPSF Group made at its meeting on Thursday 6 December 2018 for the approval of the proposed rule changes to Chapter C contained in the marked up copy of the “OctoberTenDraft” sent to us together with the memo: and

22.2. Approves those proposed rule changes marked up in OctoberTenDraft exercising its power under Chapter A Rule 15(d)(iii)

23. The resolution was carried unanimously.

D. DECLARATION OF RULE COMPLIANCE, TRUE PARTICULARS, AND WEBSITE PUBLICATION

24. The Federal Council is the supreme decision making body of the CPSU (SPSF). It has voted unanimously, at a properly convened ordinary meeting, to approve the proposed alterations within the Amended Chapter C and have recommended those proposed alterations to the National Officers Committee.

25. The National Officers Committee of the CPSU has resolved unanimously, at a properly convened teleconference, to approve the proposed alterations within the Amended Chapter C.

26. It follows the procedural steps for the making of the rule alterations to Chapter C prescribed by the CPSU rule book have been followed.

27. I have directed the staff of the Federal Office of the SPSF Group to place a notice on the CPSU (SPSF) website explaining that the application has been filed within ten days of filing it.

28. I therefore declare:

28.1. The alterations within the Amended Chapter C have been made in accordance with the rules of the CPSU as required by Regulation 126(2)(a);


28.2. This declaration establishes the actions taken by the Federal Council of the SPSF Group and the National Officers Committee of the CPSU to make the rules as required by Regulation 126(2)(b);

28.3. The particulars set out in the Notice of Particulars and these declarations are true and correct to the best of my knowledge.

**DECLARED BY THOMAS LYNCH, FEDERAL PRESIDENT OF THE CPSU (SPSF)
AT HOBART IN THE STATE OF TASMANIA THIS WEDNESDAY 19 DECEMBER
2018.**



.....
THOMAS LYNCH, JOINT NATIONAL PRESIDENT, CPSU



.....
Graham Davis Rowley
JP 4819.

BEFORE ME

FAIR WORK COMMISSION

Fair Work (Registered Organisations) Act 2009

Application under s159 to amend the rules of an organisation

IN THE MATTER OF:

**AN APPLICATION TO ALTER THE CHAPTER C RULE BOOK OF THE CPSU, the
COMMUNITY AND PUBLIC SECTOR UNION (“CPSU”)**

**NOTICE OF PARTICULARS UNDER REGULATION 126(1) OF PROPOSED
ALTERATIONS TO THE CHAPTER C RULE BOOK OF THE CPSU**

1. I Thomas Lynch, the Joint National President of the CPSU, and the Federal President of the CPSU (SPSF), give notice of the particulars of the alterations to Chapter C of the rules of the CPSU.’
2. The amendments propose an amended Chapter C which would replace the rule book dated 12 April 2018 in R2017/720.

The reason for making the proposed alterations are to:

- 2.1. ensure the Branch Secretaries are ex officio members of the Federal Executive as Federal Vice Presidents [except in circumstances where a Branch Secretary is the Federal Secretary in which case an election will be required for the Federal Vice President in that Branch.];
- 2.2. extend the franchise for the office of Branch representative on Federal Executive to the whole of the Branch Council [it was previously only open to Federal Council delegates];
- 2.3. extend the franchise for the office of Federal President to the whole of the Federal Council [it was previously only open to Federal Vice Presidents];
- 2.4. reduce the number of stages in the Branch election process from 4 to 3; and
- 2.5. make it clear that a person who is unfinancial cannot hold office in the SPSF Group.

A. PARTICULARS OF PROPOSED ALTERATIONS TO THE CHAPTER C RULE BOOK

3. The alterations proposed by this application are listed in the table below

Page	Rule Number	Rule	Brief Description of Change
1	1.1(k)	Definitions	The term "Federal Council Delegate" is included for consistency of language
1	1.1(l)	Definitions	Changing inept syntax
2	3.1	Federal Council Constitution	Amended description of Federal Council to include Branch Reps on FE
2 and 3	3.2(a) to (d)	Federal Council Delegates	"Delegate" is included for consistency of language
3	3.3(e) to (h)	Fed Council – Vote Allocation	The term "Federal Council Delegate" is included for consistency of language
3	3.3(h)	Fed Council – Vote Allocation	Internal sub-rule reference is wrong. It should refer to Rule 52.
4	3.4, 3.5 and 3.6	Fed Council – Vote Allocation	The term "Federal Council Delegate" is included for consistency of language
6	3.9(a)(ii)	Fed Council – business of ordinary meetings	The term "Federal Council Delegate" is included for consistency of language
7	3.10(b)(ii)	Fed Council – special meetings	The term "Federal Council Delegate" is included for consistency of language
8	3.11(h)	Federal Council – out of session ballots	The term "Federal Council Delegate" is included for consistency of language
8	4.1(a) and (c)	Federal Executive Constitution	"Branch Representative to Federal Executive" and "Federal Council Delegates from the Branch" language clarified
9	4.4(a)(ii)	Fed Exec Business	Clarification of language
15	7.4(d)(i)	Branch Council out of session	The "C" in Council has been capitalised
19	12.1(b)	Fed Officers - composition	This is deleted considering change to ex officio appointment
22	New 13.5(e)	Branch Secretaries Duties	Branch Secretary will also be Federal VP (with one exception)
22	13.6	Branch Assistant Duties	Remove redundant word "the duties"
23-24	Part 3 – Elections and Appointments	Elections and Appointments table	Change to accommodate ex officio positions (including the inclusion of an explanatory note)
25-26	15(1) (f)	Collegiate Voting System	Change to accommodate change in Franchise for Branch rep on Federal Executive and for Branch Secretary Ex officio Federal VP and clarification of positions for Federal Council Delegates and Branch Rep on Federal Executive
33	20.11	New Heading "Nominees"	For consistent style

39	Part 3C	Collegiate Elections	Only circumstances where a collegiate election is required for Fed VP if Branch Secretary is Federal Secretary
40	32.2	Branch Delegates to Federal Council timetable	Changes to accommodate Branch Secretary being ex officio Federal VP
40	32.3	Branch Rep to FE	Deleted in timetable because it takes place when Branch delegates to Federal Council are elected
40-41	32.4	Seniority of Federal VPs	Not necessary to include election of VPs because an election will not be required to be held unless Branch Secretary is also Federal Secretary
41	32.5	Federal President	Increase in franchise to Federal Council
42	33.3	Eligibility to nominate for Branch Rep on FE	Increased franchise to delegates to Branch Council
42	33.4	Eligibility to nominate for Fed VP	Changed to reflect Branch Secretaries are ex officio Fed VPs
42	33.5	Eligibility to nominate for Fed President	Changed to reflect broader franchise for FP to include branch reps to Federal Executive
43	33.10	Table of Nominators	Changes to reflect changes franchise for Branch Rep to Federal Executive and FVP is ex officio in most circumstances
43	34.1(c)	Holding more than one office	Needed amendment to accommodate changes in franchise and ex officio
44-45	37.1	Roll of Voters	Rolls are different because Fed VP usually filled ex officio and Branch Rep to Federal Executive franchise changed
47-48	42.1	Order of declaration for Elections – Branch Elections	New sub-rule required new heading
48	42.3	Order of declaration for Elections – Federal Officer Elections	New order due to changes in franchise and ex officio
50	44.1	Causal Vacancies	Change in order of words for greater precision
60	58.3(d)	Termination of membership	Termination of membership for unfinanciality means termination of office

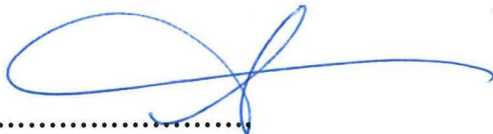
B. DECLARATIONS ON RULE COMPLIANCE, ACTION TAKEN, PUBLICATION OF NOTICE AND TRUTH REQUIRED BY REGULATIONS 126(1)(B0, AND 126(2)(a) to (c)

4. I am authorized to make the following declarations:
- 4.1. I will file the following documents together with this notice of particulars:
- 4.1.1. A document entitled "OCTOBER TENDRAFT" to the 17 December 2018 declaration of Thomas Lynch;
- 4.1.2. A declaration entitled 17 December declaration of Thomas Lynch in support of an application to alter the Chapter C rule book of the CPSU ("the Lynch declaration")
- 4.2. The Lynch declaration establishes the actions taken by the CPSU to make the alterations particularised in this notice and establishes the alterations are made in accordance with the CPSU rules.
- 4.3. I therefore declare:
- 4.3.1. The alterations were made in accordance with the CPSU rules;
- 4.3.2. The actions taken to make these alterations taken under those rules are outlined in the Lynch declaration;
- 4.3.3. The particulars set out in this notice and the Lynch declaration are true and correct to the best of my knowledge and belief.
- 4.3.4. I have given instructions to the Federal Office staff of the SPSF Group to post a notice explaining this application has been lodged on the website of the CPSU (SPSF) within ten days of making this application.

**DECLARED BY THOMAS LYNCH, JOINT NATIONAL PRESIDENT OF THE CPSU,
ON WEDNESDAY 19 DECEMBER 2018**



.....
THOMAS LYNCH, JOINT NATIONAL PRESIDENT, CPSU



.....
BEFORE ME

Graham David Rowsey
JP 4819.

HOATH, Rebekah

From: Mark Perica <mark@spsf.asn.au>
Sent: Wednesday, 19 December 2018 3:29 PM
To: ROS
Cc: Wayne Townsend; Tom Lynch (TAS); Karen Batt (VIC)
Subject: s159 Application by the CPSU(SPSF) to alter the Chapter C rulebook of the CPSU
Attachments: CPSUChapterCs159noticeofparticularsof19December.pdf; 19December159declarationofLynch.pdf; OCTOBERTEHDRAFT.docx

Dear General Manager or Delegate,

I am the Senior Legal Officer of the CPSU(SPSF).

The CPSU, by this e-mail, makes an application under s159(1) of the *Fair Work (Registered Organisations) Act 2009* for the certification by the General Manager of alterations to the Chapter C rule book of the CPSU .

Therefore, in accordance with s159, and with Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009*, we now lodge:

1. A notice of particulars of the alterations to the Chapter C rule book. It contains declarations made today by the Joint National President of the CPSU, Thomas Lynch, as to the matters required by Regulation 129(2).
2. A document entitled “19 December 2018 declaration of Thomas Lynch to support an application to alter the Chapter C rule book of the CPSU” (“the Lynch declaration”), which sets out the actions taken by the CPSU under its rules to make the alterations.
3. An attachment to the Lynch declaration headed “OCTOBERTEHDRAFT” which is a full copy of the Chapter C rule book with the alterations sought marked as tracked changes.

I have the care and conduct of this matter on behalf of the CPSU, please contact me either on my e-mail which is mark@spsf.asn.au or on my mobile which is 0408 129 965.. You should note, however, I am on leave from Friday 21 December 2018 until Wednesday 30 January 2018. I will be checking my e-mails sporadically during that time. Should you wish to speak or correspond with a CPSU employee during my leave please contact my colleague Wayne Townsend on 0408953181 or wtownsend@cpsuVIC.org

I would be grateful I could be informed by e-mail of the matter number allocated to this application by the Commission.

Yours Sincerely

Mark Perica
Senior Legal Officer
CPSU(SPSF)