



DECISION

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

Construction, Forestry and Maritime Employees Union (R2023/140)

CHRIS ENRIGHT

MELBOURNE 8 APRIL 2024

Alteration of other rules of organisation.

[1] On 18 December 2023 the Construction and General Division (the Division) of the Construction, Forestry and Maritime Employees Union (the Union) lodged with the Fair Work Commission (the Commission) a notice and declaration setting out particulars of alterations to its rules. Further materials in support of the alterations were lodged on 2 April 2024 and 4 April 2024.

[2] The Division seeks certification of the alterations under s.159 of the *Fair Work (Registered Organisations) Act 2009* (the Act).

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

[4] The particulars set out alterations to Rules 2, 4, 6, 8, 11, 13, 18, 30, 32, 34, 37, 40, 42, 44, 48, 48B, 49 and Items 9, 18, 22, 24, 31 and 35 of Schedule 1. In addition, the particulars set out the deletion of Rule 48C and Item 17 of Schedule 1 and the addition of new Rule 34A.

[5] The alterations:

- from the 2024 scheduled elections onwards –
 - increase the number of Divisional Conference delegates elected from the Divisional Branches. The Divisional Conference is the supreme governing body of the Division,¹
 - delete redundant provisions concerning the election of National Conference Delegates representing members employed in the Northern Territory, while preserving their entitlement to a National Conference Delegate,²
 - provide for the election of (at least) one Divisional Conference Delegate from each Branch who is a woman,³
 - increase the size of the Divisional Branch Council of the Queensland Northern Territory Divisional Branch by one. The additional person must be a woman.⁴ The Divisional Branch Council is the highest governing body of the Divisional Branch,⁵
 - change the qualifications for the office of ordinary Divisional Branch Council member in the Australian Capital Territory Divisional Branch, to better reflect the current composition of the Divisional Branch’s membership,⁶

- reduce the size of the temporarily merged Victoria-Tasmania-South Australia Divisional Branch Council and remove the allotment of Divisional Branch Council offices to specific trades;⁷
- increase the size of the Australian Capital Territory Branch's Divisional Branch Management Committee by one. The additional person must be a woman.⁸ The Divisional Branch Management Committee is the Divisional Branch's committee of management,⁹
- remove the allotment of various Australian Capital Territory Divisional Branch Management Committee offices to specific trades;¹⁰
- ensure both Branch Assistant Secretaries from the temporarily merged Victoria-Tasmania-South Australia Divisional Branch are ex officio members of the Divisional Conference;¹¹
- clarify which members of the Union are attached to the Division. In particular, the proposed alterations deal with coal and shale industry members in South Australia and the Northern Territory. The proposed alterations reflect an agreement reached by the Union and the Mining and Energy Union in connection with the latter's registration as an organisation of employees under the Act;¹²
- allow a Branch Management Committee to defer a member's contributions and make consequential alterations to ensure an affected member is not treated as unfinancial during the deferral period;¹³
- clarify the circumstances when a member is unfinancial. Unfinancial members enjoy none of the privileges of membership;¹⁴
- clarify and refine the removal from office provisions and make it clear that those provisions do not apply to non-office positions such as organisers;¹⁵
- clarify that medical certification of incapacitation and subsequent rehabilitation applies only to elected full-time officers;¹⁶
- extend the arrangements which enable contributions to be paid by direct debit or payroll deductions to the New South Wales and Western Australia Divisional Branches;¹⁷
- modify how life membership is conferred. Under the proposed alterations life membership will be conferred at the relevant Divisional Branch Management Committee's discretion rather than by the effluxion of time. Existing life membership continues to be recognised;¹⁸
- delete otiose and redundant rules and transitional provisions;¹⁹
- add notes to the Divisional Rules, drawing the reader's attention to Divisional Rules which are modified by Schedule 1. Schedule 1 gives effect to the temporary merger of the Victoria-Tasmania Divisional Branch and the South Australia Divisional Branch; and
- make minor grammatical, syntax and numbering changes.

[6] For the most part, the proposed alterations can be colloquially described as a tidy-up exercise. They make it easier to read, interpret and apply the rules. That is liable to promote good governance in the Division, its effective operation and high standards of accountability to the Division's members. I note that the tweaks to the composition of various collective bodies in the Division are intended to apply to the scheduled quadrennial Divisional elections which will be held later this year. With the exception of the proposed alterations listed immediately below it is unnecessary to further discuss the alterations, beyond certifying my opinion under s.159(1) of the Act. I do so later.

[7] The proposed alterations to Rule 40(2)(v), Item 22 of Schedule 1, 8(iii), 40(ii)(viii) and 42(ii) require further discussion.

Proposed Rule 40(2)(v) & Item 22 of Schedule 1

[8] Commission staff raised preliminary concerns about an aspect of the alterations to Rule 40(2)(v) and Item 22 of Schedule 1 with the Division. In response, the Division requested determination of the remaining alterations while it considered its position in relation to those two rules.

[9] I am satisfied that the proposed alterations to the first paragraph of Rule 40(2)(v) and to Item 22 of Schedule 1 are severable from the other alterations in light of the principles set out by the majority in *Re Food Preservers' Union of Australia*.²⁰ In particular, the proposed alterations to the first paragraph of Rule 40(2)(v) and to Item 22 of Schedule 1 are completely independent of any other alterations. Certifying the proposed alterations to the first paragraph of Rule 40(2)(v) and to Item 22 of Schedule 1—or refusing certification—does not affect the meaning or effect of the other alterations.

[10] In the circumstances, this decision will deal with all of the alterations (including the deletion of two rules and the insertion of a new rule) contained in the particulars, other than the alterations to the first paragraph of Rule 40(2)(v) and to Item 22 of Schedule 1. Commission staff will continue to engage with the Division in order to finalise the outstanding alterations in a timely manner.

Proposed Rules 8(iii), 40(ii)(viii) and 42(ii)

[11] Each of these rules reserve an office for a Union member attached to the Division based on the member's sex.

[12] In a recent decision about alterations to the rules of the Mining and Energy Union²¹ (*Re: MEU*) I set out what, in my view, is the correct approach under s.159 of the Act where proposed rule alterations reserve an office in a registered organisation for someone of a specific sex.²²

[13] Because that decision was handed down so recently, it is unnecessary to recite the relevant passages here. I rely on the analysis and reasoning in that matter. I apply it in reaching my decision about whether to certify the proposed alterations to Rules 8(iii), 40(ii)(viii) and 42(ii).

[14] The notice and declarations in the present matter were accompanied by submissions made by the Division. Some of those submissions were directed to the issues raised in the Mining and Energy Union matter.

[15] In reaching my conclusion in this matter, I have had regard to all of the material provided by the Division. It is not necessary to set out the Union's submissions in full. Nonetheless, I consider the following particularly relevant:

“5 The proposed rule alterations do not contravene any of ss 142(1)(a) and (d), 159(1)(a) and (b) of the FW(RO) Act, nor s 19 of the *Sex Discrimination Act 1984* (Cth) (SDA), for the following reasons.

6. First, the proposed rule alterations at Items 1(b), 2(b)(ii) and 2(c)(i) of Attachment 1 each constitute a ‘special measure’ for the purposes of s 7D of the SDA. That section relevantly provides that a person does not commit sex discrimination in contravention of the SDA by taking special measures ‘for the purpose of achieving substantive equality between ... men and women’. Consequently, the proposed rule alterations do not contravene the SDA and are therefore not “contrary to law”.

7. Each of the proposed rule alterations is a ‘special measure’ for the purposes of SDA s 7D because:

- a. the C&G Division, the ACT Divisional Branch and the QNT Divisional Branch are each of the subjective view that:
 - i. substantive equality has not been achieved between their male and female members; and
 - ii. the proposed rule alterations will tend to advance substantive equality between them, and are necessary for this purpose;
- b. the views of the C&G Division, ACT Divisional Branch and QNT Divisional Branch that each rule alteration is necessary as a special measure is objectively reasonable; and
- c. each of the proposed rule alterations objectively has the capacity to advance substantive equality between male and female members of the C&G Division, ACT Divisional Branch and QNT Divisional Branch, respectively.

8. Second, the differential treatment of male and female members under each of the proposed rule alterations is “relevant and appropriate to the object to be attained”, namely, encouraging the participation of women in the affairs of the C&G Division, the ACT Divisional Branch and the QNT Divisional Branch and ensuring that they are representative of their female members. Consequently, the rule is not otherwise discriminatory within the meaning of s 142(1)(d).

9. Third, none of the proposed rule alterations impose oppressive, unreasonable, or unjust conditions on members, and are consistent with Parliament’s intentions in enacting the FWRO Act, because the relevant restriction is imposed:

- a. to encourage women to nominate for office, thereby increasing the level of member participation (particularly, by female members) in the affairs of the C&G Division, ACT Divisional Branch and QNT Divisional Branch;
- b. to ensure that the C&G Division, ACT Divisional Branch and QNT Divisional Branch are each representative of their female members; and
- c. to increase the diversity of persons holding office on governing bodies of the C&G Division, ACT Divisional Branch and QNT Divisional Branch.”²³

[16] The submissions go on to state that relevant “proposed change is to ensure that at least one delegate from each Divisional Branch is a woman.”²⁴ It goes on to submit that the reason for the proposed changes is:

“To make the Divisional Conference more representative of the rank-and-file membership, and to ensure representation of women.”²⁵

[17] In the Division’s submission similar considerations apply in relation to the Divisional Branch Council of the Queensland Northern Territory Divisional Branch²⁶ and the Australian Capital Territory Branch’s Divisional Branch Management Committee.²⁷

[18] Further submissions lodged on 4 April 2024 contained the following:

“[T]he proposed rule alterations seek to ensure that positive industrial, political and social diversity outcomes for women are embedded and reflected in the Divisional Rules. This reflects the Union’s commitment to gender equality and affirmative representation across the Construction industry, in this case by measures designed to assist in the pursuit of substantive equality for woman as leaders of the union;

...

[T]he proposed rule alterations seek to ensure the representation of women in elected positions within the Division, which would otherwise be unlikely to take place absent the proposed rule changes. Specifically, the new offices aim to address the systemic underrepresentation of women in the construction industry by ensuring the inclusion of women in the decision-making processes and governance of the union. It is the union’s intention that the creation of these positions would result in an increased awareness of women’s issues, and encourage women members to have greater participation and presence in the union.”

[19] I find these submissions persuasive. I consider the situation facing the Division is similar to the situation faced by the Mining and Energy Union. Nothing before me would lead me to distinguish the two situations. Nor is there anything before me to suggest the conclusions I reached in the *Re: MEU* are not relevant to the proposed alterations to the Division’s rules.

[20] As a consequence, I find that the proposed alterations to Rules 8(iii), 40(ii)(v) and 42(ii) do not:

- impose on members of the organisation conditions, obligations or restrictions that are oppressive, unreasonable or unjust when regard is had to Parliament’s intention in enacting the Act and the *Fair Work Act 2009*, contrary to s142(1)(c) of the Act;
- discriminate against members of the organisation on the basis of sex, contrary to s.142(1)(d) of the Act;
- contravene Commonwealth anti-discrimination legislation, contrary to law within the meaning of section 159(1)(c) of the Act.

[21] Nothing about the proposed alterations to Rules 8(iii), 40(ii)(viii) and 42(ii) fails to comply with any other provision of the Act, the *Fair Work Act 2009* (FW Act) modern awards and enterprise agreements. Nor are those proposed alteration’s contrary to any of those instruments.

[22] On 2 April 2024 Zachary Smith, National Divisional Secretary gave consent under subsection 159(2) of the Act for me to make an amendment to the alterations for the purpose of

correcting typographical, clerical or formal errors. Accordingly, the following corrections have been made:

- In proposed Divisional Rule 8(iii) a second, unnumbered paragraph has been added in the following terms: “In addition, each Divisional Branch shall be entitled to elect one (1) additional delegate who must be a woman.”

[23] In my opinion, with the exception of alterations to the first paragraph of Rule 40(2)(v) and Item 22 of Schedule 1 which have not been considered, the alterations comply with and are not contrary to the Act, the FW Act, modern awards and enterprise agreements, are not otherwise contrary to law and were made under the rules of the organisation. I certify accordingly under subsection 159(1) of the Act.



DELEGATE OF THE GENERAL MANAGER

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¹ See proposed Divisional Rule 8(iii). Also see the 15 December 2023 submissions of the CFMEU in support of the alterations (the submissions) at Attachment 1, Item 1

² See proposed Divisional Rule 8(viA). Also see the submissions at Attachment 1, Item 16.

³ See proposed Divisional Rule 40(2)(ii)(A)(vii) and 40(2)(ii)(B). See also the submissions at Attachment 1, Item 1

⁴ See proposed Divisional Rule 40(2)(A) – (C). Also see the submissions at Attachment 1, Item 4A.

⁵ See Rule 40(1).

⁶ See proposed Rule 40(2)(iii). Also see the submissions at Attachment 1, Item 3.

⁷ See proposed Rules 40(2)(v) and Item 22 of Schedule 1. Also see the submissions at Attachment 1, Item 2

⁸ See proposed Rule 42(iii). Also see the submissions at Attachment 1, Item 4.

⁹ See Rule 42(a)(iii).

¹⁰ See proposed Rule 42(a)(iii). Also see the submissions at Attachment 1, Item 4

¹¹ See proposed Divisional Rule 8(vii). Also see the submissions at Attachment 1, Item 17.

¹² See proposed Divisional Rules 2, 4(vii). Also see Commission file D2022/10, Federal Court of Australia file NSD1120/2023 and the submissions at Attachment 1, Items 27 & 28.

¹³ See proposed Divisional Rules 6(2), 32(j). Also see the submissions at Attachment 1, Items 8 & 10.

¹⁴ See proposed Divisional Rule 32. Also see the submissions at Attachment 1, Item 9 and Divisional Rule 32(g).

¹⁵ See proposed Divisional Rules 11(a) – (c) & (e), 48(a). Also see the submissions at Attachment 1, Items 29, 30 & 31

¹⁶ See proposed rule 49(e). Also see the submissions at Attachment 1, Items 29 & 30.

¹⁷ See proposed Divisional Rule 32(cA). Also see the submissions at Attachment 1, Item 7.

¹⁸ See proposed Divisional Rule 34(a)(ii) & (iii). Also see the submissions at Attachment 1, Items 5 & 6.

¹⁹ See proposed Divisional Rules 4(iv), 4(v), 4(vi), 4(vii), 4(ix), 8(ii), 8(via), 13(iv), 18(d), 30(v), 37(ii), 37(iv)(b), 40(2)(ii)(A), 40(2)(ii)(C), 42(a)(v), 44(iv), 48B(2) – (6), the deletion of Rule 48C, Items 9, 18, 24, 31 and 35 of Schedule 1. Also see the submissions at attachment 1, Items 4A, 11, 12, 13, 15A, 15B, 17, 18, 19, 21, 22, 23, 24, 25, 26, 26B

²⁰ (1998) 79 ALR 138 per Northrop & Ryan JJ.

²¹ *Re: Mining and Energy Union*; 2024 FWCD 1022; Delegate Enright, 22 March 2024.

²² *Ibid* at [15] – [26].

²³ See the submissions at paragraphs 5 – 9.

²⁴ See the submissions at Attachment 1, Item 1.

²⁵ *Ibid*.

²⁶ See the submissions at Attachment 1, Item 4A.

²⁷ See the submissions at Attachment 1, Item 4.

From: Lucy Weber <lweber@cfmeu.org>
Sent: Thursday, 4 April 2024 10:53 AM
To: Mark Elliott
Subject: RE: R2023/140 - Alterations to the Rules of the CFMWU C & G Division

OFFICIAL

Good morning Mark,

Thank-you for your time on the phone yesterday, and for your email below.

Rule 8(iii)

I acknowledge the first matter of your email regarding rule 8(iii); thank-you.

Representation for women

In relation to second matter, I refer to the written submissions of the union filed alongside the application, at paragraphs [5] – [9]. In addition, the union submits:

- the relevant proposed rule alterations seek to:
 - create one national conference delegate office in each Divisional Branch which must be allocated to a woman;
 - create one additional position within the Divisional Branch Management Committee of the Division's Australian Capital Territory Branch which must be allocated to a woman; and
 - create one additional position on the Divisional Branch Council of the Queensland and Northern Territory Divisional Branch which must be allocated to a woman.
- the proposed rule alterations seek to ensure that positive industrial, political and social diversity outcomes for women are embedded and reflected in the Divisional Rules. This reflects the Union's commitment to gender equality and affirmative representation across the Construction industry, in this case by measures designed to assist in the pursuit of substantive equality for woman as leaders of the union;
- the construction industry which the Division operates within is traditionally, and continues to be, a male dominated industry. This is reflected in the membership of the Division. In recent years the proportion of women both in the industry and within the membership of the Division has increased, however the union is unlikely to achieve substantive equality between men and women in the union unless there are special measures taken to provide for the increased participation of women within the governance structures of the union. To this end, the creation of the new positions reflect the union's commitment to achieving equality for women pursuant to s 7D of the *Sex Discrimination Act*;
- the proposed rule alterations seek to ensure the representation of women in elected positions within the Division, which would otherwise be unlikely to take place absent the proposed rule

changes. Specifically, the new offices aim to address the systemic underrepresentation of women in the construction industry by ensuring the inclusion of women in the decision-making processes and governance of the union. It is the union's intention that the creation of these positions would result in an increased awareness of women's issues, and encourage women members to have greater participation and presence in the union.

Rule 40(2)(v)(a) and Item 22 of Schedule 1

I confirm that the Division agrees to FWC severing the proposed alterations to Rule 40(2)(v)(a) and Item 22 of Schedule 1 of the Divisional Rules so that the remaining alterations can be put before the General Manager's Delegate for certification. This agreement is strictly premised on:

- our understanding that the deletion of the balance of r40(2)(v)(a) after the first paragraph of that sub-rule will not be severed. Those deletions reduce the number of delegates elected from various zones and – as indicated in your email below – are certifiable / not the subject of the issues raised in your email; and
- the union will liaise with FWC about appropriate adjustments to the parts of r40(2)(v)(a) and Item 22 of Schedule 1 that are being severed from the current application, in order to ensure that the requirements of the FW(RO) Act are met. It is our understanding that this will be dealt with as soon as possible, and in advance of the Divisional elections scheduled for later this year.

Please contact me should you require any further information.

Kind regards,

CFMEU

Construction & General Division
National Office



Lucy Weber
Director of Legal and Industrial

540 Elizabeth Street
Melbourne VIC 3000

03 9274 9268
[Redacted]
lweber@cfmeu.org

I acknowledge the traditional Aboriginal owners of country throughout Australia and pay my respect to them, their culture and their Elders past, present and future.

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From: Mark Elliott <Mark.ELLIOTT@fwc.gov.au>

Sent: Wednesday, April 3, 2024 1:29 PM

From: Zach Smith <zsmith@cfmeu.org>
Sent: Tuesday, 2 April 2024 9:26 AM
To: Mark Elliott
Cc: Lucy Weber
Subject: RE: R2023/139 Application by CFMEU (Construction & General Division) for Divisional Rule Changes

You don't often get email from zsmith@cfmeu.org. [Learn why this is important](#)

OFFICIAL

Dear Mark,

Thank-you for your email below.

In accordance with s.159(2) of the FW(RO) Act, I confirm that the union consents to correcting a typographical / clerical error in relation to the application in R2023/139 so that the following words are inserted at the end of r8(iii) of the Divisional Rules:

"In addition, each Divisional Branch shall be entitled to elect one (1) additional delegate who must be a woman."

Regards, Zach

CFMEU

Construction & General Division
National Office & ACT Branch



Zach Smith
National Secretary & ACT Branch Secretary

7-10/8 Cape Street
Dickson ACT 2602

02 6267 1584
[REDACTED]
zsmith@cfmeu.org

I acknowledge the traditional Aboriginal owners of country throughout the ACT and pay my respect to them, their culture and their Elders past, present and future.

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From: Mark Elliott <Mark.ELLIOTT@fwc.gov.au>
Sent: Thursday, March 28, 2024 4:35 PM
To: Lucy Weber <lweber@cfmeu.org>

From: Lucy Weber <lweber@cfmeu.org>
Sent: Monday, December 18, 2023 5:08 PM
To: Registered Orgs <regorgs@fwc.gov.au>
Cc: Mark Elliott <Mark.ELLIOTT@fwc.gov.au>
Subject: R2023/139 Application by CFMEU (Construction & General Division) for Divisional Rule Changes

Good afternoon,

The Construction, Forestry and Maritime Employees Union seeks certification of alterations to the rules of its Construction & General Division (105N-BWIU) in accordance with s159 of the *Fair Work (Registered Organisations) Act 2009* and r126 of the *Fair Work (Registered Organisations) Regulations 2009 (FW(RO) Regulations)*.

Please see **attached**:

- the declaration of Zach Smith, for the purposes of rr126(1)(a), (2) of the FW(RO) Regulations;
- a copy of the Divisional rules, track-changed in word format to include the proposed amendments (the attachment to Mr Smith's declaration); and
- submissions in support of the application.

A copy of the notice placed on the CFMEU's website, in accordance with r126(1)(b) of the FW(RO) Regulations, can be seen here: <https://cg.cfmeu.org/your-union/notices-members>.

Please note:

- the content of the proposed rule changes has been the subject of preliminary advice from Mark Elliott in matter no. R2023/119; and
- a number of the changes will affect the positions that will be the subject of the Divisional Branch elections which are scheduled for 2024. Pursuant to rule r38 of the Divisional Rules and r.138(3) of the FW(RO) Regulations, prescribed information for that election is due in June 2024. Accordingly, we ask that the application be considered as early as possible and determined well in advance of the election proceedings.

Kind regards,

CFMEU

Construction & General Division
National Office



Lucy Weber
Senior National Legal Officer

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03 9274 9268

lweber@cfmeu.org

I acknowledge the traditional Aboriginal owners of country throughout Australia and pay my respect to them, their culture and their Elders past, present and future.

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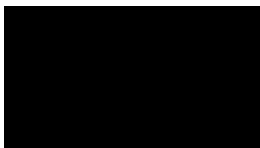
DECLARATION OF AUTHORISED OFFICER in accordance with Regulation 126 of the Fair Work (Registered Organisations) Regulations 2009

ALTERATION OF OTHER RULES OF ORGANISATIONS in accordance with section 159 of the Fair Work (Registered Organisations) Act 2009

I, Zachary Alan Smith, Union Official, of 7-10/8 Cape Street, Dickson in the Australian Capital Territory, am authorized to give this notice of particulars of alterations to the rules of the *Construction, Forestry and Maritime Employees Union, Construction and General Division and Construction and General Divisional Branches (105N-BWIU) (Divisional Rules)* and to make this declaration as required by Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009 (RO Regs)*.

1. I am the National Divisional Secretary of the Construction & General Division of the Construction, Forestry and Maritime Employees Union (**CFMEU**). I have the necessary knowledge of the factual matters referred to within this Declaration.
2. In accordance with the Divisional Rules, a majority of members of the Divisional Executive of the Construction & General Division of the CFMEU (the **Divisional Executive**) have resolved to alter the Divisional Rules.
3. A true copy of the rule alterations approved by the Divisional Executive is **attached** to this Declaration.
4. The rule alterations were approved by a valid majority of the votes cast at a meeting of the Divisional Executive held on 5 December 2023.
5. The steps required for calling a Divisional Executive meeting are set out in Divisional Rule 9(17). In accordance with that rule, the meeting on 21 June 2023 was:
 - a. a scheduled meeting of the Divisional Executive; and
 - b. quorate.
6. A notice has been placed on the CFMEU's website, in accordance with regs 126(1)(a) and (2) of the RO Regs, which can be accessed via the URL <https://cg.cfmeu.org/your-union/notices-members>.
7. The rule alterations were made in accordance with the rules of the CFMEU.
8. Each of the alterations are intended to apply immediately upon certification, however – to be clear - no proposed alteration will interfere with the terms of current office holders.
9. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

Signed:



Date: 18/12/2023

Zachary Alan Smith

National Secretary – Construction & General Division
Construction, Forestry and Maritime Employees Union

Submissions of the CFMEU in support of proposed rule alterations to 105N-BWIU

Introduction

1. The Construction and General Division (**C&G Division**) of the Construction, Forestry and Maritime Employees Union (**CFMEU**) seeks certification of alterations to its Divisional Rules in accordance with s 159 of the of the *Fair Work (Registered Organisations) Act 2009* (Cth) (**FW(RO) Act**) and regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009* (Cth) (**FW(RO) Regulations**).
2. Please find enclosed the declaration of Zachary Smith for the purposes of regulations 126(1)(a) and 126(2) of the Regulations. A notice has also been placed on the Union's website at <https://cg.cfmeu.org/your-union/notices-members> in accordance with regulations 126(1)(a) and (2) of the FW(RO) Regs.

Summary of proposed alterations

3. Attached to these submissions and marked **Attachment 1** is a table which summarises the proposed rule changes. The right-hand column identifies reasons for the proposed change including for the purposes of satisfying ss.142 and 159(1) of the FW(RO) Act.
4. In addition to those reasons set out in Attachment 1, we make the following additional submissions in relation to Items 1(b), 2(b)(ii) and 2(c)(i) of the Summary Table, which each seek to create offices which must be held by a woman. These offices are on the Divisional Conference, the ACT Branch Divisional Branch Management Committee and the Queensland and Northern Territory Branch Council respectively.

The new positions allocated to women

5. The proposed rule alterations do not contravene any of ss 142(1)(a) and (d), 159(1)(a) and (b) of the FW(RO) Act, nor s 19 of the *Sex Discrimination Act 1984* (Cth) (**SDA**), for the following reasons.
6. First, the proposed rule alterations at Items 1(b), 2(b)(ii) and 2(c)(i) of Attachment 1 each constitute a 'special measure' for the purposes of s 7D of the SDA. That section relevantly provides that a person does not commit sex discrimination in contravention of the SDA by taking special measures 'for the purpose of achieving substantive equality between ... men and women'.¹ Consequently, the proposed rule alterations do not contravene the SDA and are therefore not "contrary to law".
7. Each of the proposed rule alterations is a 'special measure' for the purposes of SDA s 7D because:
 - a. the C&G Division, the ACT Divisional Branch and the QNT Divisional Branch are each of the subjective view that:

¹ See, eg, *Re APESMA* [2017] FWCD 4034, [33]–[34]; *Re CFMMEU* [2022] FWCG 54; *Re Jacomb* (PR943240); *Jacomb v AMACSU* [2004] FCA 1250.

- i. substantive equality has not been achieved between their male and female members; and
 - ii. the proposed rule alterations will tend to advance substantive equality between them, and are necessary for this purpose;
 - b. the views of the C&G Division, ACT Divisional Branch and QNT Divisional Branch that each rule alteration is necessary as a special measure is objectively reasonable; and
 - c. each of the proposed rule alterations objectively has the capacity to advance substantive equality between male and female members of the C&G Division, ACT Divisional Branch and QNT Divisional Branch, respectively.
8. Second, the differential treatment of male and female members under each of the proposed rule alterations is “relevant and appropriate to the object to be attained”, namely, encouraging the participation of women in the affairs of the C&G Division, the ACT Divisional Branch and the QNT Divisional Branch and ensuring that they are representative of their female members.² Consequently, the rule is not otherwise discriminatory within the meaning of s 142(1)(d).
9. Third, none of the proposed rule alterations impose oppressive, unreasonable, or unjust conditions on members, and are consistent with Parliament’s intentions in enacting the FWRO Act, because the relevant restriction is imposed:
 - a. to encourage women to nominate for office, thereby increasing the level of member participation (particularly, by female members) in the affairs of the C&G Division, ACT Divisional Branch and QNT Divisional Branch;
 - b. to ensure that the C&G Division, ACT Divisional Branch and QNT Divisional Branch are each representative of their female members; and
 - c. and to increase the diversity of persons holding office on governing bodies of the C&G Division, ACT Divisional Branch and QNT Divisional Branch.³
10. We trust that the above and attached assists your consideration of the proposed alterations. We would be pleased to provide further information to answer any queries that may arise.

15 December 2023

² *Re APESMA* [2017] FWCD 4034, [38], citing *Street v Queensland Bar Association* (1989) 168 CLR 461 (Gaudron J); *Re CFMMEU* [2022] FWCG 54, [23].

³ *Re CFMMEU* [2022] FWCG 54, [23].

ATTACHMENT 1 – SUMMARY OF PROPOSED RULE CHANGES

Categories of Rule Changes

1. Changes to composition of Divisional Conference

- a. Increase representation of Branches from 1 delegate per 2,000 members to 1 delegate per 1,000 members; and
- b. Create one (1) national conference delegate office in each Divisional Branch which must be allocated to a woman.

2. Changes to composition of Divisional Branch Bodies

- a. Victoria-Tasmania Divisional Branch:
 - i. re-structure of Divisional Branch Council to reduce numbers to make the body fit-for-purpose; and
 - ii. removal of FEDFA allocation to Senior Vice President office;
- b. Australia Capital Territory Divisional Branch:
 - i. removal of trade allocations in Divisional Branch Council and DBMC as they are no longer fit-for-purpose;
 - ii. creation of one (1) additional position on the DBMC to allocated to a woman;
- c. Queensland and Northern Territory Divisional Branch:
 - i. Creation of one (1) additional position on Divisional Branch Council allocated to a woman.

3. Changes to make conferral of Life Membership discretionary and preservation of existing life membership entitlements

4. Changes to streamline direct debit arrangements

5. Temporary dues deferral

6. Removal of redundant provisions and typographical errors

- a. Generally redundant provisions;
- b. Changes consequent to 2013 abolition of Vic-Tas Branch Assistant Secretary;
- c. Changes consequent to removal of FEDFA allocation to SVP office in Vic-Tas Branch;
- d. Other

7. Amendments consequential on de-amalgamation of M&E Division

These amendments follow from the agreement reached between the CFMEU and MEU in D2022/10, as formalised in the Federal Court proceedings in NSD1120/2023.

8. Amendments to reform processes for removal from office to ensure procedural fairness

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Item No	Rule No	Rule Subject	Proposed Change	Reason for change
	<i>Title</i>	n/a	The proposed change simply updates the name of the union following the de-amalgamation of the Mining and Energy Division effective from 1 December 2023	Please refer to D2022/10 and the Federal Court order in NSD1120/2023 dated 20 November 2023, which set the date of 1 December 2023 for the de-amalgamation of the former Mining & Energy Division of the CFMEU pursuant to s109(1)(a) of the FW(RO) Act. As a result of those proceedings, the name of the union changed on 1 December 2023 as per rule 1 in the updated Annexure 6 dated 1 March 2023 in D2022/10.
1. Changes to composition of Divisional Conference <ul style="list-style-type: none"> - <i>Increase no of delegates</i> - <i>Affirmative action requirement</i> 				
1	8(iii)	Supreme Governing Body in Division	<p>Currently Divisional Branches are entitled to elect (including the Branch Secretary) one delegate for each 2,000 members or part thereof, and one delegate for each succeeding 2,000 members or part thereof.</p> <p>The first proposed change is to increase representation so that – from the next Divisional Branch elections scheduled for 2024</p> <ul style="list-style-type: none"> - Branches are entitled to elect a delegate for each 1,000 members or part thereof. <p>The second proposed change is to ensure that at least one delegate from each Divisional Branch is a woman.</p> <p><i>(iii) Except as provided for in sub-clause (vi) and in sub-rule (viA), for the Divisional Branch elections scheduled for 2024 and onwards, Divisional Branches shall be entitled to elect, including the Divisional Branch Secretary, one delegate for the first one (1) two(2) thousand members or part thereof</i></p>	<p>To make the Divisional Conference more representative of the rank-and-file membership, and to ensure representation of women.</p> <p>See additional written submissions above.</p>

ATTACHMENT 1 – SUMMARY OF PROPOSED RULE CHANGES

			<p><i>and one delegate for each succeeding <u>one (1) two(2)</u> thousand members or part thereof.</i></p> <p><i><u>In addition, each Divisional Branch shall be entitled to elect one (1) additional delegate who must be a woman.</u></i></p>	
<p>2A. Changes to composition of Divisional Branch Council – VIC-TAS and removal of FEDFA allocation to SVP office</p> <p><i>Reduction in size of Council from unsustainable level (1 rep for each zone retained, removal of trade requirements (noting that trade requirement will be retained in the DBMC)</i></p>				
2	<p>40(2)(v)(a)</p> <p>and</p> <p>Schedule 1, Item 22</p>	<p>Supreme Governing Body – Divisional Branch Council</p>	<p>Sub-rule (v)(a) deals with the Vic-Tas Branch Council</p> <p>At the moment subrule (v)(a) requires Zone Delegates to be elected to the DBMC in accordance with a formula based on the size of the zone. The proposed change is to amend the rule so that only 1 delegate is elected from each (existing) zone. In addition, the trade requirements for the council positions are removed (note that similar trade requirements are retained in the Vic-Tas Divisional Branch Management Committee).</p> <p>Representation from the Tas and SA Sub-Branch Committees will be limited to 4 of the 8 committee members (as determined by those committees at their first meeting following the election).</p> <p>Proposed amendments as follows:</p> <p><i><u>(v) (a) For the Divisional Branch elections scheduled for 2024 and onwards, tThe members of the Divisional Branch Council of the Victoria-Tasmania Divisional Branch shall consist of the members of the Divisional Branch Management Committee, four of the members of the Divisional Branch Sub-Branch Management Committee referred to in Rule 42B(ii) herein (to be determined by the Sub-Branch Management Committee at its first meeting after the declaration of each branch election) and one Zone Delegate for each of the zones identified in (b) below.</u></i></p>	<p>It is well established that an organisation is able to determine its internal structure as it thinks fit, provided it complies with the Act and its rules (<i>Imlach v Daley</i> (1985) 7 FCR 457 at 462).</p> <p>At the moment the size of the Vic-Tas Council is large, unwieldy and not fit-for-purpose. There are currently 125 elected council officers. By contrast, the Divisional branch with the next highest number of elected councillors is NSW with 61.</p> <p>The proposed amendments make the body more manageable, whilst maintaining appropriate representation for each of the existing Zones. Note that SA members are also ensured representation, for the duration of the temporary amalgamation effected by Schedule 1 to the rules - see Item 22 of that Schedule.</p>

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			<p>elected in accordance with the following: s elected in accordance with the following:</p> <p>The Zone Delegates to Divisional Branch Council referred to in sub-rule (b) hereof shall be determined in accordance with the following formula:</p> <p><u>Size of Zone — Number of Delegates</u> Up to 500 financial members 4 delegates</p> <p>Each additional 1000 financial members _____ 3 delegates</p> <p>The number of financial members of a Zone for the purpose of determining the number of Zone Delegates to Divisional Branch Council in accordance with this paragraph shall be the number of financial members attached to the zone as at 5.00 p.m. on 30 July preceding the calling for nominations for elections of Zone Delegates to Divisional Branch Council.</p> <p>Wherever any election of the Zone Delegates to Divisional Branch Council becomes necessary only the members belonging to that zone where an election is required to take place shall be eligible to nominate and to receive a ballot paper.</p> <p>Subject to the proviso in the following paragraph, the Divisional Branch Council shall consist of Zone Councillors in accordance with the formula set out in this paragraph and, in the case of the Metropolitan Melbourne Zone, there shall be representation of carpenters, builders labourers, crane operators, rigger/dogman, plant and machine operators, boiler attendant/engine driver, production worker (metal), concrete pump operations, forklift operations, hoist operations, drilling/piling, painters/signwriters, bricklayers, roof-tilers, stone masons, wall and floor tilers, fibrous plasterer/fibrous plaster industry workers and solid plasterers in accordance with the proportions set out in Rule 42(a)(v) with</p>	<p>To paraphrase Gray J in <i>Lawley v TWU</i>,⁴ “the major democratic safeguard” to be found in the rules with respect to the Branch Council is the presence of the 6 elected officers and 23 DBMC members, all elected by the whole of the membership.</p> <p>Additionally (to continue paraphrasing Gray J⁵), where a decision has been taken that the smaller Zones and sub-branches should be represented on Branch Council, it follows that the representation of the Zones and sub-branches on that body would not be strictly in proportion with their membership. If it were, the situation would be little different from that which would exist without specific Zone and sub-branch representation, i.e., the smaller sections would have no effective voice at all.</p> <p>Additional democratic safeguards exist in the following Divisional Rules:</p> <p>a. Rule 68(a) provides for “a referendum of the whole of the financial members of the Divisional Branch” to be taken “[o]n receipt of a petition signed by not less than 1000 financial members”, to be decided by a majority of the votes recorded, and the outcome of which is binding on Branch Council (as well as members of the Divisional Branch and the DBMC);</p>
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⁴ (1987) 22 IR 114, 124–5.

⁵ Ibid 125.

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			<p><i>respect to the Victoria-Tasmania Branch Management Committee, and for all other zones, representation shall be by and from all members of the respective zones.</i></p> <p>Proposed amendments for the duration of the temporary amalgamation of the Vic-Tas and SA Branches (Schedule 1, Item 22) mirror the above.</p>	<ul style="list-style-type: none"> b. Rule 42(t) requires DBMC, on receipt of a petition signed by not less than 10% of the financial members of the Divisional Branch, to convene a special meeting of Branch Council or conduct a ballot of Branch Council in respect of any matter “to which members are objecting”; c. Rule 69(ii)(b) requires a special general meeting of Divisional Branch members to be convened at the written request of 25 financial members; d. Rule 42(m) provides for a special meeting of the membership “in respect of any district or any zone” to be called by petition of 10% of the financial members in that district or zone; and e. Given the significance of the DBMC in the amended composition of Council, it is also worth noting that rule 42(p) requires a special meeting of DBMC to be called upon request of at least 40% of the representatives of the DBMC; f. Rule 41(b) also provides for special meetings of Branch Council to be held “if two thirds or more of the delegates of the Divisional Branch Council sign a petition calling for such”. <p>Any possible adverse effects which flow from the reduction in the size of the Council are also outweighed by the improvements made with respect to “operational effectiveness”, “efficient management” and</p>
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				<p>“high standards of accountability”.⁶ For example, because of the reduced cost of providing financial management training to a large group of people that is geographically dispersed and the composition of which changes regularly, as well as the questionable efficacy of providing such training to a group that seldom meets and rarely performs its financial duties.⁷</p> <p>With respect to the removal of trade requirements for the Zone Delegates in the Melbourne Metro Zone, this will have a neutral effect on the representation of the various trades on Branch Council, given the identical trade requirements for DBMC will continue in force, and the members of DBMC will continue to sit on Branch Council. Additionally, the removal of the trade requirements do not disproportionately affect any particular trade. In general, the removal of trade requirements and other rules reserving offices to particular sections of the membership tends to <i>enhance</i> the democratic control of a branch or organisation (in the sense of the democratic ideal of one vote one value) by removing restrictions on the franchise and/or candidature for the offices concerned.</p> <p>Finally, the removal of the trade requirements will not affect the viability of</p>
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⁶ Ibid [35].

⁷ Ibid [34].

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				<p>either the branch or union. None of the other Zones currently have trade requirements for their Delegates to Branch Council. Nor are there trade requirements for delegates to the NSW, the QNT,⁸ the WA or the SA Divisional Branch Councils. In those circumstances, it can hardly be suggested that the removal of the trade requirements from the Metropolitan Melbourne Zone Delegates will prevent a viable governing body being formed, or undermine the viability of either the branch or the union as a whole.</p> <p>In these circumstances, reducing the number of the Branch Councillors does not impose oppressive, unreasonable or unjust restrictions or conditions on members. Rather, it streamlines the body while ensuring representation.</p>
<p>2B. Changes to composition of Divisional Branch Management Committee and Council – ACT Branch</p> <ul style="list-style-type: none"> - <i>Removal of trade allocations</i> - <i>Affirmative action position in DBMC</i> 				
3	40(2)(iii)	Divisional Branch Council	<p>Amended as follows:</p> <p><i>For the Divisional Branch elections scheduled for 2024 and onwards, in the Australian Capital Territory the Divisional Branch Council shall consist of the 17 members of the Divisional Branch Management Committee and nine (9) councillors elected from the membership of the Branch. Of the 9 councillors elected from the membership, 5 shall be tradespersons and 4 shall be non-</i></p>	<p>Current trade requirements were established following historical amalgamations, and are no longer fit for purpose / do not reflect the composition of the contemporary membership.</p>

⁸ Apart from the Assistant Secretary (Painters) and the Assistant Secretary (Plasterers), who also sit on QNT Branch Council.

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			<p><i>tradespersons (including 1 councillor who is eligible for membership of the Union pursuant to National Rule 2(E)).</i></p>	
4	42(a)(iii)	Divisional Branch Management Committee	<p>Amended as follows:</p> <p><i>For the Divisional Branch elections scheduled for 2024 and onwards, in the Australian Capital Territory the Divisional Branch Management Committee shall consist of the Divisional Branch President (which position shall be honorary), two (2) Divisional Branch Vice-Presidents (which positions shall be honorary), the Divisional Branch Secretary/Treasurer, the Divisional Branch Assistant Secretary, and eleven (11) other members and one (1) additional member who must be a woman. Provided however that there shall be at least one painter, 1 FEDFA (ie member eligible pursuant to National Rule 2(E)), 1 bricklayer, 4 builders labourers, 3 carpenters and one other representative elected from the classifications of stone mason, slater and tiler, wall and floor tiler or plasterer on the Divisional Branch Management Committee.</i></p>	<p>Notably, although the existing trade-restricted positions on ACT DBMC and Council are required to be elected “from” the various trades, they may be elected “by” all members of the ACT branch. As such, the removal of the trade requirements will have no effect on the democratic control of the branch: all members will continue to be enfranchised to elect all members of the DBMC and Branch Council, including the elected officials, the 11 DBMC members, and 9 Councillors. If anything, democratic control will be enhanced by the removal of restrictions on candidature, which will enable a wider cohort of the membership to nominate for each position, and which may encourage members who would otherwise have been barred from nominating to participate in the affairs of the union.</p> <p>Further, the removal of the trade requirements will not affect the viability of the branch. There are no trade requirements for DBMC members in the NSW, the QNT,⁹ the WA or the SA DBMCs. Nor are there trade requirements for delegates to the NSW, the QNT,¹⁰ the WA, the SA, or the Vic-Tas¹¹ Divisional Branch Councils. The absence of trade requirements in the rules relating to the composition of those bodies strongly suggests the removal of the trade requirements with respect to the ACT DBMC</p>

⁹ That is, the QNT Divisional Branch Executive.

¹⁰ Apart from the Assistant Secretary (Painters) and the Assistant Secretary (Plasterers), who also sit on QNT Branch Council, as noted above.

¹¹ Apart from the Metropolitan Melbourne Zone (for now).

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				<p>and Council will not undermine the viability of either the branch or the union as a whole, or prevent the formation of a viable governing body.</p> <p>As above, the removal of these trade requirements can also be justified on the basis that they are redundant and reflect the imperatives of amalgamations which occurred 30 years ago in the case of FEDFA (in the ACT), and decades earlier in respect of the other trades.</p> <p>The amendment at r42(a)(iii) also inserts an additional affirmative action office into the ACT Branch DBMC, who must be elected from the female membership of the Branch. See additional written submissions above.</p>
<p>2C. Changes to composition of Divisional Branch Council – QNT</p> <p>Additional position on Branch Council allocated to a woman</p>				
4A	40(2)(ii)(A) – (C)	Divisional Branch Council	<p>The proposed rule change:</p> <ul style="list-style-type: none"> - adds an additional position to the Branch Council which must be a woman at new r(ii)(A)(vii) ((current (vii) is re-numbered to (viii)). The position is elected by and from all members of the QNTDB who are eligible to nominate and vote (rr.(ii)(B)); - removes redundant wording in the opening words of (ii)(A) and at the end of (ii)(C) 	<p>To ensure minimum representation of women.</p> <p>See additional written submissions above.</p>
<p>3. Changes to life membership rules</p> <p><i>Removal of length of services requirements and makes the awarding of life membership at the discretion of DBMCs</i></p>				
5	34	Aged, Infirm, Unemployed or Unfinancial members	Currently r34(a)(ii) and (iii) provides for the granting of life membership after either 30 or 40 years membership	Making the awarding of life membership at the discretion of the DBMC is consistent

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	and Schedule 1, Item 17		depending on the Branch, and will be replaced with proposed new rule 34A (see below). Item 17 in Schedule 1 (which deals with amendments during the temporary amalgamation of the SA and Vic-Tas Branches in 2024-2028) will be deleted because it will become redundant.	with the existing requirement for the granting of retired membership in subrule 34(a)(i).
6	34A (new provision)	Life Membership	This proposed change inserts a right for members to apply for life membership into a stand-alone provision. The proposed changes differ from the existing r34 by removing length requirements and makes the granting of life membership at the discretion of DBMC's (rather than the result of the mere effluxion of time). The final proposed paragraph recognises life memberships that were conferred prior to the date of the rule change.	
4. Changes to direct debit arrangements				
7	32(cA)	Contributions	Rule 32(cA) currently prescribes rules for members on direct debit and payroll deduction arrangements for members in the QNTDB and SA Divisional Branches. The proposed rule change extends these arrangements to also apply to the WA and NSW Divisional Branches.	This simply streamlines processes for the WA and NSW Branches in accordance with existing processes within the union. Note that SA was added into r32(cA) in R2021/215 (see [2022] FWCG 8).
5. Temporary dues deferral				
8	6(2)	Contributions	Sub-rule 2 provides that members are deemed unfinancial where they have failed to pay the entrance fee, all contributions, levies and fines on or before a date specified in the Branch Rules (r32(g) below). The amendment adds words to provide that this is subject to any deferral under new r32(j) (see below).	Note that existing r32(i) gives DBMC's broad discretion to cancel or waive contributions for up to 6 months. The proposed change introduces a limited discretion to <i>defer</i> payment. This is designed to address unfairness which arises as a

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9	32(g)	Contributions	<p>Clause 32(g) provides that members are deemed financial where they have failed to pay all contributions, levies and fines in accordance with the rules.</p> <p>The amendment adds words to provide that this is subject to any deferral under new r32(j) (in addition to existing subrules (cA) and (i))</p>	<p>result of the “ticket” system for membership. The ticket system requires payment of 6 monthly dues in advance at the turn of ticket (1 March and 1 September in each year; see r32(a)). The practical issue is that there are long-term members who may pay their dues (for various reasons) after those dates. It is a discretion limited to members with at least 3 years financial membership, and designed to ensure that those members are not disenfranchised as the result of a late payment.</p> <p>Note that – if not for the proposed rule and the benefit of any proposed deferral – a member would be unfinancial if they have not paid their full dues in advance on 1 March or 1 September. Because of this, they would be unable to either nominate or hold office. That is, the proposed rule enfranchises (rather than disenfranchises) the member. Because of this, we do not think it necessary to write in any particular notification requirement (although, of course, the DBMC could notify individuals where the discretion is applied).</p>
10	32(j)		<p>New clause 32(j) provides as follows:</p> <p><i>A Divisional Branch Management Committee may, in its discretion and for any reason it considers appropriate, defer for a maximum period of three months the date by which payment of contributions shall be due and payable under sub-clause (b) of this Rule. Any member whose contributions have been deferred will remain a financial member as provided for in Rule 6 for the duration of the deferral, save that the member will not be eligible to nominate for or hold office within the Union for the duration of the deferral. A Divisional Branch Management Committee may only defer the payment of contributions of a member who has paid membership contributions in full in each six-monthly period in which such contributions fell due and payable for at least the previous three years.</i></p> <p><i>Any period covered by a deferral shall count for all purposes as continuous financial membership.</i></p> <p><i>The Divisional Branch Management Committee may defer the payment of contributions either before or after they fall due and payable in accordance with sub-clause (b) of this Rule. If a payment of contributions is deferred after it falls due and payable, the period of the deferral must commence on the date that the contributions fell due and payable and at which the member would, but for the deferral, have become unfinancial. The Divisional Branch Management Committee may not decide to defer the</i></p>	

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			<i>payment of contributions more than three months after the contributions fell due and payable.</i>	
6. Removal of redundant provisions				
11	4(iv)	Membership	<p>R.4(iv), 2nd para is a transitional rule that dealt with the 2010 translation of members from the then-<i>Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch of the C&G Division</i> into the current C&G Division.</p> <p>The rule also:</p> <ul style="list-style-type: none"> - Recognised length of membership in the former divisional branch, and the FBTPU (which amalgamated with the CFMEU to create that Divisional Branch); and - Recognised life or honorary membership validly conferred by the former Divisional Branch or the FBTPU 	<p>The proposed change deletes the second para.</p> <p>The preservation of validly conferred life or honorary membership is retained in new proposed rule 34A.</p> <p>The preservation of the length of membership no longer serves any practical purpose given the effluxion of time.</p>
12	4(v)		<p>R.4(v) is a transitional rule that dealt with the translation of members from the BLF in Tasmania into the former Construction Labourers Divisional Branch.</p> <p>The rule also recognised length of membership in BLF Tasmania.</p>	<p>The proposed change deletes the para.</p> <p>The rule is redundant and has no further work to do.</p> <p>The preservation of the length of membership no longer serves any practical purpose given the effluxion of time.</p>

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13	4(vi)		<p>R.4(vi) is a transitional rule which dealt with the translation of members of the BLF in Victoria, WA, SA and Qld into the union following amalgamations in 1994.</p> <p>The rule also recognised length of membership in the former BLF branches.</p>	<p>The proposed change deletes the para.</p> <p>The rule is redundant and has no further work to do.</p> <p>The preservation of the length of membership no longer serves any practical purpose given the effluxion of time.</p>
15	4(ix)		<p>R.4(ix) is a transitional rule which dealt with the translation of members from the QBLDB into the QNTDB.</p> <p>The rule also recognised length of membership in the former QBLDB.</p>	<p>The proposed change deletes the para.</p> <p>The rule is redundant and has no further work to do.</p> <p>The preservation of the length of membership no longer serves any practical purpose given the effluxion of time.</p>
15A	8(ii)	Supreme Governing Body in Division	The proposed change is to delete the final para of the sub-rule, which allocated 2 conference delegates to positions within the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional branch	The provision is redundant and has no work to do post the 2013.
15B	8(viiA)	Supreme Governing Body in Division	This subrule was a transitional rule which preserved conference delegates offices following the amalgamation of the QNTDB and QBLDB	Removal of redundant provision which has no further work to do
16	8(viA)	Supreme Governing Body in Division	<p>This rule tracks the history of members in the Northern Territory, who – since 2013 – have been part of an amalgamated Qld and NT Branch.</p> <p>The proposed change is to remove redundant references, but retain the right to the QNTDB having a dedicated delegate to Divisional Conference representing the NT.</p>	Removal of redundant provisions while retaining a conference delegate position allocated to members in the NT.
17	8(vii) and	Supreme Governing Body in Division	This provision provided that the Secretary of the Vic-Tas Branch and the Div Branch Asst Sec (FEDFA) are ex officio delegates to Divisional Conference.	The proposed changes delete references to the Div Branch Asst Sec (FEDFA).

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	Schedule 1 Item 9		The proposed amendment is to delete references to the Div Branch Asst Sec (FEDFA), and amend to rule so that the Branch Secretary and the two Assistant Secretaries are ex officio delegates to Divisional Conference.	The Assistant Secretary (FEDFA) office was abolished on and from 2 January 2013 – see former rule 37(v)(a) which sunset on and from 2 January 2013 or the declaration election in 2012, whichever was later, at which point r37(b)(v) came into operation. Sub-rule (v)(a) was deleted as redundant in R2023/57. Because this rule is altered by Schedule 1, the same changes are made to Schedule 1 item 9
18	13(iv)	Duties of Officers	r.13(iv) sets out the duties of the Divisional Senior Vice President. The second para provides that <i>“[o]ne of the Divisional Senior Vice Presidents shall until the election of Divisional Officers after 2 January 1997 be a representative of Painters and that Divisional Senior Vice President shall be a full-time officer of the Division”</i> . This wording is now redundant.	The proposed change deletes the second paragraph. It is redundant / no longer has any work to do.
19	37(ii)	Officers	R.37(ii) is amended as follows: (ii) <i>Without affecting the term of office of persons holding office as Divisional Branch Officers in the QNTDB and the QBLDB immediately prior to the date of certification of this sub-rule, in In the QNTDB the officers of the Divisional Branch shall on and from 3 January 2013 and as a result of the merger of the QNTDB and the QBLDB consist of the Divisional Branch President, two (2) Divisional Branch Senior Vice-Presidents (which positions shall be honorary), two (2) Divisional Branch Vice-Presidents (which positions shall be honorary), the Divisional Branch Secretary, the Divisional Branch Assistant Secretaries (the total number of which shall be determined in accordance with Rule 40 of these Divisional rules) which shall include a Divisional Branch Assistant</i>	The amendments remove redundant wording

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			<i>Secretary (Plasterers) and may include a Divisional Branch Assistant Secretary (Painters), and two Divisional Branch Executive Members.</i>	
<i>Removal of redundant provisions relating to the abolished Branch Assistant Secretary (FEDFA) Office in the Vic-Tas Branch</i>				
20	8(vii)	Supreme Governing Body in Division	Sub-rule (vii) provides that the Branch Secretary and The Divisional Branch Assistant Secretary (FEDFA). The reference to FEDFA is deleted.	The office of Divisional branch Assistant Secretary (FEDFA) was abolished on and from 2 January 2013 – see former rule 37(v)(a) which sunset on and from 2 January 2013 or the declaration election in 2012, whichever was later. That sub-rule was deleted as redundant in R2023/57. (After 2013 there are still 2 Branch Assistant Secretaries, but neither are allocated to FEDFA or any other particular section of membership).
21	48C	Duties of Divisional Branch Assistant Secretary (FEDFA)	This rule set out the duties of the Divisional Branch Assistant Secretary (FEDFA) in the Victoria-Tasmania Divisional Branch. The section is deleted.	
<i>Removal of FEDFA allocation to Senior Vice President in Vic-Tas Branch</i>				
22	37(v)(b) and Schedule 1 Item 18	Officers	This sub-rule identifies officers in the Divisional Branches. The proposed amendment removes the requirement that the Senior Vice President Office must be a member under the CFMEU's FEDFA coverage rule. The commensurate change is made in Item 18 of Schedule 1.	These changes reflect the fact that the SVP office in the Vic-Tas Branch will no longer be required to be allocated to the former FEDFA division. The FEDFA division integrated into the branch some years ago and no longer maintains a separate existence within the branch. The variations will have a marginal effect on the representation of that section of the membership among the elected officers and on the governing bodies of the Divisional Branch, especially given:
23	42(a)(v) and Schedule 1, Item 24	Divisional Branch Management Committee	This sub-rule sets out members of the DMBC in the Vic-Tas Divisional Branch. The proposed amendment removes the requirement that the Senior Vice President Office must be a member under the FEDFA coverage rule. The commensurate change is made in Item 24 of Schedule 1.	
24	44(iv) and	Divisional Branch Vice President	This sub-rule sets out the duties and responsibilities of the Div branch Vice-President (FEDFA).	

ATTACHMENT 1 – SUMMARY OF PROPOSED RULE CHANGES

	Schedule 1, Item 31		The proposed amendment is to remove the sub-rule, because it has no utility following the removal of the FEDFA allocation. Item 31 in Schedule 1 is removed as a result.	
25	48B And Schedule 1, Item 35	Duties of Divisional Branch Senior Vice-President (FEDFA) (Victoria-Tasmania)	<p>This rule sets out the duties of the Senior Vice-President in the Vic-Tas Branch.</p> <p>The proposed amendment removes the reference to this office being allocated to members under the FEDFA coverage rule, and the reference to “the FEDFA Section of the Branch” which is a redundant term. The duties of the office otherwise remain the same. A commensurate change is made at Item 35 of Schedule 1.</p>	<p>a. all members of the Divisional Branch, FEDFA or otherwise, have always been able to vote for the SVP (FEDFA) position; and</p> <p>b. the FEDFA members will continue to have 6 places reserved to them on DBMC (who are also ex officio Council members).</p> <p>In light of those other provisions of the rules, the removal of the FEDFA allocation from the Senior Vice President position will not impose oppressive, unreasonable or unjust conditions on members or applicants for membership from the standpoint of either ensuring the organisation is representative of its members, or providing for its democratic functioning and control.</p> <p>Further support for this position may be found in the General Manager’s certification of the alteration to the Divisional rules to remove the FEDFA allocation from the Divisional Branch Assistant Secretary (FEDFA) position on and from 2 January 2013, which also required the General Manager to form the opinion that the alteration complied with the FWRO Act, including s 142(1)(c).¹² If the removal of the FEDFA allocation from the Assistant Secretary position in 2013 did not impose conditions which were oppressive (etc), it is difficult to see how removing it from the</p>

¹² As at 2 January 2013, ss 5(3), 142(1)(c) and 159(1) were all in essentially the same terms as they are now.

ATTACHMENT 1 – SUMMARY OF PROPOSED RULE CHANGES

				Senior Vice President position in 2023 could have any different effect.
<i>Other</i>				
26	18(d)	Divisional Branches	This sub-rule is a transitional rule that was inserted following the amalgamation of the Victorian FEDFA Divisional Branch and the Victorian Building Unions Divisional Branch some years ago.	These provisions were transitional and are now redundant
26A	18	Divisional Branches	Rule 18 establishes the Divisional Branches. The proposed changes simply remove now-redundant sub-numbering.	The proposed changes are cosmetic only, to remove superfluous sub-numbering
26B	30(v)	Divisional Branches	Rule 30 sets out membership requirements. Sub-rule (v) provides that a period of prior membership of the former FEDFA Division Victorian Divisional Branch counts as period of membership of the C&G Division Victorian Divisional Branch.	These provisions were transitional and are now redundant
26C	37(v)(a)	Officers	The proposed change removes a signpost that was incorrectly inserted in R2023/46. The correct placement for the signpost is under subrule(b)	This corrects an error
26D	Schedule 1, Item 20	Schedule 1 – Temporary Amalgamation of Vic-Tas and SA Divisional Branches	The proposed change simply corrects a typographical error to complete the word “follows” in the preamble	This corrects a typographical error
7. Amendments consequential on de-amalgamation of M&E Division				
27	2	Eligibility for Division	<p>This rule refers to the relevant provisions of the CFMEU’s national rules which apply to the C&G Division and is amended as follows:</p> <p><i>Every member who is a member of the union by virtue of Rule 2 Sub-rules (A), (B), (D), (DA) and (N) of the National Rules shall belong to this Division.</i></p> <p><i>Further, every member who is a member of the Union by virtue of Rule 2 sub-rule (E) of the National Rules, shall also be eligible for membership of this Division.</i></p>	<p>Note that the sub-rules 2(D) and 2(DA) contains coverage reserved to the CFMEU’s C&G Division in the coal and shale industries. This change merely reflects the agreement reached in D2022/10, which took effect by order of the Federal Court in NSD1120/2023.</p> <p>The final paragraph is redundant in view of the amendments to the first line. This is because rule 2(D) of the CFMEU rules provides for coverage in the State of South Australia and in the Northern Territory in or</p>

ATTACHMENT 1 – SUMMARY OF PROPOSED RULE CHANGES

			<i>Further provided that in the State of South Australia every member who is a member of the Union by virtue of Rule 2(D) shall belong to this Division.</i>	in connection with the coal and shale industries. Rule 2(DA) of the CFMEU’s rules sets out the CFMEU’s coverage in the coal and shale industries in the remaining states and territories.
28	4(vii)	Membership	<p>Rule 4(viii) is a transitional rule which dealt with the translation of members of members in the M&E Divisions in SA into the C&G Division in 2012.</p> <p>The rule also:</p> <ul style="list-style-type: none"> - Recognised length of membership from the M&E Division; and - Recognised life or honorary membership validly conferred by the M&E Division 	<p>The proposed change deletes the para.</p> <p>The rule is redundant.</p> <p>Note that the M&E Division de-amalgamated on 1 December 2023 but, in any event, at the time of that event had not had coverage of members in the State of South Australia since 2012). Also note Item 27 above</p>
8. Amendments to reform processes for removal from office				
29	11	Removal of officers	<p>Clause 11 sets out a process for removal of officers. These amendments ensure that the provision relates only to elected offices, and modifies the process to ensure procedural fairness.</p>	<p>These changes are intended to streamline process while ensuring procedural fairness.</p>
30	48	Duties of Organisers	<p>Clause 11 sets out the duties of organisers, who are under the control and supervision of the relevant DBMC.</p> <p>The proposed change is to specify that rule 48 does not apply to Organisers, consistent with the proposed amendments to r11.</p>	<p>Section 141(1)(c) of the <i>Fair Work (Registered Organisations) Act 2009</i> requires that persons <u>elected to an office</u> may be removed from that office only if they have been found guilty, in accordance with the Rules of the Union, of misappropriation of funds of the Union or a substantial breach of the Rules of the Union or gross misbehaviour or gross neglect of duty or has</p>
31	49	Full time paid officers	<p>49(e) refers to circumstances where full-time officers are unable to carry out their duties are prescribed by the rules. The amendment is to clarify that the rule relates to elected</p>	

ATTACHMENT 1 – SUMMARY OF PROPOSED RULE CHANGES

			<p>officers only, consistent with the proposed amendments to r11,</p>	<p>ceased according to the Rules of the Union to be eligible to hold office.</p> <p>However, current Rule 11 goes further than that and applies to <u>all</u> Divisional or Divisional Branch Officers. This includes people who are elected or not. It also applies to people, such as Organisers, who do not come within the definition of “officers” under the FW(RO) Act.</p> <p>There’s a long line of authority that CFMEU C&G Organisers are not “officers” for the purposes of the FWRO Act.</p> <p>A confusion arises because organisers are <u>are</u> “officers” for the purpose of the rules. For that reason, the union does not have to use a s.141(1)(c) process to remove them. Despite this, it has chosen to apply rule 11 to them up to now, because the rule 11 process applies under the rules to those people who are defined as officers under the rules (not just officers under the Act). So, it is open to the union to exclude all organisers from rule 11, whether or not they are elected.</p> <p>The proposed changes ensure that the process refers to elected officers (within the meaning of the FW(RO) Act only. This outcome is not contrary to the FW(RO) Act, which is silent as to whether the rules could permit the removal of some officers from office but not others.</p>
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ATTACHMENT 1 – SUMMARY OF PROPOSED RULE CHANGES

				<p>Note that new rule 11(e) specifies that “office”, under the rule, has the same meaning as provided for in the FW(RO) Act”. This ensures that, for example, the rule would apply to person who hold offices either ex officio or as the result of a casual vacancy appointment. E.g., a person will not fall within the FW(RO) Act definition merely because they are an organiser (whether elected or not), but if the Organiser happens to <i>also</i> be a member of a Committee of Management or Branch Council, they will be an “officer” for the purposes of the FWRO Act.</p>
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105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]
(replaces rulebook dated 23 February 2023 [R2022/149])

I CERTIFY under section 161 of the Fair Work (Registered
Organisations) Act 2009 that the pages herein numbered
1 to 75 both inclusive contain a true and correct copy of
the registered rules of the Construction, Forestry [and Maritime Employees](#),
~~Mining and Energy~~ Union, Construction and General
Division and Construction and General Divisional Branches

GENERAL MANAGER
FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any office of the Fair Work Commission.]

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Construction and General Divisional Branches
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CONSTRUCTION AND GENERAL DIVISION RULES

1 – NAME

The name of the Division shall be "the Construction and General Division".

2 – ELIGIBILITY FOR DIVISION

Every member who is a member of the union by virtue of Rule 2 Sub-rules (A), (B), (D), (DA) and (N) of the National Rules shall belong to this Division.

Further, every member who is a member of the Union by virtue of Rule 2 sub-rule (E) of the National Rules, shall also be eligible for membership of this Division.

~~Further provided that in the State of South Australia, every member who is a member of the Union by virtue of Rule 2(D) shall belong to this Division.~~

3 – DEFINITIONS

Unless the context otherwise indicates, in these Rules:

"BRANCH" shall mean a Branch of the Union set up in accordance with the rules of the Union.

"commencement day" means the date provided by rule 69(iB)(c)

"CONSTRUCTION AND GENERAL DIVISIONAL BRANCH" or "DIVISIONAL BRANCH" shall mean a branch of this division established in accordance with these rules.

"FINANCIAL MEMBER" shall mean any member who has paid all subscriptions, fines, levies and dues in accordance with the rules of the Union and in relation to Construction and General Division is a member of this Division.

"MEMBER" shall mean a member of Construction and General Division and membership shall have a corresponding meaning.

"MEMBERSHIP YEAR" shall, for the purpose of Divisional Rule 19 herein, mean the period encompassing the two consecutive six month periods to which membership contributions are ordinarily attributable (i.e. 1 April to 30 September and 1 October to 31 March).

"C.O.M." (Committee of Management) or "Executive" shall be synonymous and shall mean in relation to a divisional branch the controlling and administrative body of such Divisional Branch.

"PREFERENTIAL VOTING" shall mean a system of voting in which the voter shall place the number 1 in the square opposite the name of the candidate for whom the member votes as first preference and shall place the number 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of all the remaining candidates so as to indicate the order of the members preference for them.

In a ballot by the preferential system the valid ballot papers shall be separated into separate parcels, each such parcel containing all those papers on which a first preference is indicated for the same candidate.

If on the first count a candidate receives an absolute majority of first preference votes of total valid votes cast the candidate shall be declared elected.

Commented [LW1]: See item 27 in summary table.

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4 – MEMBERSHIP

If no candidate has received an absolute majority of first preference votes the candidate with the fewest first preference votes shall be excluded and the ballot papers on which a first preference is indicated for such candidate shall be counted to the remaining candidates next in the voters' order of preference.

If a candidate has then an absolute majority of votes he shall be elected, but if no candidate then has a majority of votes, the process of excluding the candidate who has the fewest votes and the distribution of the voters' preferences shall continue until one candidate has received an absolute majority of votes.

In cases where more than one position is to be filled the numbers placed opposite the candidates' names up to the number of positions to be filled shall be first preference votes and the procedure in respect to the distribution of preferences shall be the same as is above prescribed where a ballot is for a single position.

The candidate or candidates as the case may be, who has received an absolute majority of votes shall be elected.

“QBLDB” means the Queensland Builders Labourers Divisional Branch.

“QNTDB” means the Queensland Northern Territory Divisional Branch.

“UNFINANCIAL DIVISIONAL BRANCH” shall mean a Branch of the Division that has more than two of the monthly capitation payments or part thereof outstanding to the Divisional Office as at the relevant date applicable in the rule where that expression is used in these Rules.

4 – MEMBERSHIP

- (i) A candidate for membership of the Division may make application to the Divisional Branch covering the area in which he or she resides or is employed, and such application shall be made and dealt with in the manner and subject to the conditions including conditions as to any probationary period required by the rules of the Divisional Branch to which it is made. Notwithstanding anything herein prescribed Divisional Branch rules may provide other methods of applying for membership.
- (ii)
 - (a) Candidates shall supply such information as to their identity and occupation, and such other particulars as to their eligibility for membership and the benefits of membership as the Divisional Branch may require, and shall, when requested, fill in and sign such application form as may be provided.
 - (b) The application form referred to above may be the form previously used by any union which has amalgamated to form this Union.
- (iii) The Divisional Branch Secretary or other officer authorised under these or any other rules may refer any application for membership to the Divisional Executive for consideration or decision. Where in any case the admission to membership of any person applying is rejected such person shall have the right to appeal to the Divisional Executive the decision of which shall be final.
- (iv) A member shall be deemed to be attached to the Divisional Branch covering the locality in which he resides, or, in the case of members employed in an industry for which a Divisional Branch has been established, then to such Divisional Branch. Where there is not a Divisional Branch covering the locality in which a member resides or the industry in which the member is employed, the member shall be attached to such Divisional Branch in either this Division or any other Division as the Divisional Executive of this Division may direct.

4 – MEMBERSHIP

~~Any person who, as at 1 April 2010, is a member of the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch of the Construction and General Division shall be and become a member of the Divisional Branch of the Construction and General Division covering the locality in which they reside and shall have the same financial membership status within that Divisional Branch as they did within the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch at the time of the transfer. Any outstanding membership contributions owing to the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch as at 1 April 2010 shall become an amount owing to the Divisional Branch into which such members are transferred pursuant to this rule. Further, the period of membership of the Divisional Branch into which any such members are transferred shall be the length of time that such persons have been members of the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch and the former The Federated Brick Tile and Pottery Industrial Union of Australia (FBTPU). Further, life membership or honorary membership validly conferred by the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch or the FBTPU upon a member shall be recognised as such within the Divisional Branch into which such members are transferred.~~

Commented [LW2]: See Item 11 in summary table

- (v) ~~Any person who at the date of the certification of this Sub Rule is a member of the Australian Building Construction Employees and Builders Labourers Federation, Tasmanian Branch (herein referred to as the BLF (Tasmania)), a Union of employees registered as such under the Industrial Relations Act (Tasmania) shall be and become a member of the Union without payment of any entrance fee and while financial in the BLF (Tasmania) shall be treated as financial in the Union and such membership shall commence on and from the date of the establishment of the Construction Labourers Divisional Branch.~~

Commented [LW3]: See Item 12 in summary table

~~Further, the length of membership of said member shall be the length of time that member has been a member of the BLF (Tasmania) except in the case of persons who have transferred to the BLF (Tasmania) from another Branch of the CFMEU covering labourers, in which case the length of membership shall be the length of time in the BLF (Tasmania) and the other CFMEU Divisional Branch, together.~~

~~Provided further that any member of the BLF, Tasmania may, within twenty one (21) days of the certification of this Sub Rule, opt not to join the CFMEU, by notice, in writing, addressed to the Secretary of the Building Unions Divisional Branch in the State of Tasmania.~~

~~All persons who were previously members of the BLF, Tasmania and have been admitted to membership in accordance with this Sub Rule shall be advised in writing of their admission to membership as soon as practicable thereafter and shall be informed of the financial obligations arising from membership and the circumstances, and the manner, in which such member may resign from the organisation.~~

- (vi) ~~Any person who at 31 March 1994 is a member of the Australian Building Construction Employees and Builders Labourers Federation (Victorian Branch) (BLF Victoria), the Australian Builders' Labourers' Federated Union of Workers – Western Australian Branch (ABLF WA), the Australian Building and Construction Workers' Federation (BLF SA), or the Australian Building, Construction Employees and Builders' Labourers' Federation (Queensland Branch) Union of Employees (BLF QLD) shall, to the extent that such person is eligible, be and become a member of the Union without payment of any entrance fee and while financial in any of the aforesaid unions or branches of the BLF shall be treated as financial in the Union and such membership shall commence on and from 31 March 1994. Further, the length of membership of the said member shall be the length of time that such member has been a member of any of the aforesaid unions or branches of the BLF together with any continuous membership of the Union which membership was continuous with the period of membership of any of the aforesaid unions or branches of the BLF either before or after the date of transfer. Provided that no member transferring by virtue of this rule shall by reason only of that transfer enjoy any right or suffer any liability conferred on a member of the CFMEU by reason of membership at a particular date prior to 31 March 1994.~~

Commented [LW4]: See Item 13 in summary table

[105N-BWIU: Incorporates alterations of 7 March 2023 \[R2022/140\]](#) ~~105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]~~

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6 – CONTRIBUTIONS

~~All persons who were previously members of the BLF, the ABLF WA, the BLF SA, the BLF QLD and are admitted to membership in accordance with this Sub Rule shall be advised in writing of their admission to membership as soon as practicable thereafter and shall be informed of the financial obligations arising from membership and the circumstances, and the manner, in which such member may resign from the organisation. A person who is notified of their admission to membership in accordance with the Sub Rule may, in writing, within seven days of the notification thereof, signify their desire not to be a member of the Union and, on receipt of such signification, they shall not be treated as a member of the CFMEU, but, to the extent that moneys are owed to the BLF, such money shall be a debt owing to the CFMEU.~~

- (vii) ~~[Deleted] Any person who, as at 1 April 2012, is a member of the South Australian District Branch of the Mining and Energy Division shall be and become a member of the South Australian Divisional Branch of the Construction and General Division and shall have the same financial membership status within that Divisional Branch as they did within the South Australian District Branch of the Mining and Energy Division at the time of the transfer. Any outstanding membership contributions owing to the South Australian District Branch of the Mining and Energy Division as at 1 April 2012 shall become an amount owing to the South Australian Divisional Branch of the Construction and General Division pursuant to this rule. Further, the period of membership of the South Australian Divisional Branch of the Construction and General Division shall be the length of time that such persons have been members of the South Australian District Branch of the Mining and Energy Division. Further, life membership or honorary life membership validly conferred by the South Australian District Branch of the Mining and Energy Division upon a member shall be recognised as such within the South Australian Divisional Branch of the Construction and General Division.~~

Commented [LW5]: See item 28 in summary table

Note: On and from 25 January 2025, or the declaration of the Divisional Branch elections scheduled to be held in 2024, whichever is the later, this rule is affected by operation of Schedule 1.

- (viii) ~~[Deleted]~~

Commented [LW6]: This is a reference to new r4(viiA) which is a transitional rule for the temporary amalgamation which says that members of the existing Vic and SA branches will become members of the amalgamated branch

- (ix) ~~[Deleted] Any person who, at the date of certification of this sub rule, is a member of the QBLDB shall become a member of the QNTDB and shall have the same financial membership status within that Divisional Branch as they did within their former Divisional Branch at the time of their transfer. Any outstanding membership contributions owing to the QBLDB as at the date this rule takes effect shall become an amount owing to the QNTDB. Further provided that the period of membership of the QNTDB shall be the same as that held by such members within the QBLDB.~~

Commented [LW7]: See Item 15 in summary table

5 – ENTRANCE FEES

Applicants for membership of Construction and General Division shall pay on application an entrance fee in accordance with Divisional Branch rules.

6 – CONTRIBUTIONS

1. The annual contribution payable by each member shall be fixed by the Divisional Executive on the basis that such contribution shall be no less than 1% of the carpenter base rate in the Building and Construction General On-Site Award 2020 or any award of the Fair Work Commission or any successor Commonwealth Tribunal replacing same, multiplied by 52, provided that the Divisional Executive may fix some other rate.

For the purposes of the immediately preceding sentence and Rule 32(b) herein, base rate shall mean the sum of the award base rate, supplementary payment and arbitrated safety net adjustments as determined by the relevant industrial body or tribunal.

2. Any member who has failed to pay the entrance fee, all contributions, levies and fines imposed in accordance with these or the Divisional Branch rules on or before the date specified in the Divisional

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8 – SUPREME GOVERNING BODY IN DIVISION

Branch rules, shall, subject to any deferral under Rule 32(j) herein, be deemed to be unfinancial, and shall not be eligible, provided that Divisional Branch rules may provide that such members or some class or classes of such members may vote in a ballot, to receive any benefits, participate in any deliberations, propose or second any new applicant member for admission, or exercise any authority or any membership rights.

Commented [LW8]: See Items 8-10 in summary table

A member shall be deemed to be financial immediately upon payment of all arrears outstanding. Divisional Branch rules may provide that unfinancial members shall not be entitled to funeral, accident or any other benefits or to exercise any of the rights of members under Divisional Branch rules.

7 – SPECIAL MEMBERS

1. The Divisional Executive or the Divisional Branch Executive may fix a special or different rate of contribution and/or entrance fee for any class of members and any member within that class shall, on compliance with those conditions and subject to any rule, other than rules 5, 6 and/or 32(b), be entitled to all the benefits of membership.

8 – SUPREME GOVERNING BODY IN DIVISION

- (i) The supreme governing body of the Division shall be the Divisional Conference.
- (ii) The Divisional Conference shall consist of delegates including full time Divisional Officers elected as delegates. Provided that Divisional Branch Secretaries by virtue of being elected as such shall automatically be the Divisional Branch delegate or one of the Divisional Branch delegates to Divisional Conference.

Provided further that existing elected officers of the Divisional Executive who are retiring from office and who have not been re-elected as delegates to Divisional Conference shall be entitled to attend the Divisional Conference which elects their successors and shall be entitled to all rights of a Conference delegate other than nominating and voting on any matter. Further provided that, if not otherwise a delegate to Divisional Conference by virtue of this sub-clause, members of the Divisional Executive shall, ipso facto, be delegates to the Divisional Conference and treated, in all respects, as delegates in the same way as any other member of the Divisional Executive.

Provided that any Delegate to the Divisional Conference from a Divisional Branch that has more than two of the monthly capitation payments or part thereof and/or interest thereon for which the Divisional Branch is liable under sub-rule 14(i) outstanding to the Divisional Office as at the date of any meeting of the Divisional Conference, shall not be entitled to attend any Divisional Conference (unless at the express invitation of one of the Divisional Officers), and in any event, shall not be entitled to move, amend or vote at any such meeting.

Any Assistant Divisional Branch Secretary designated for Painters shall be delegates to the Divisional Conference.

The Divisional Branch Assistant Secretary of the South Australian Divisional Branch shall, by virtue of the holding of such office, be a member of the Divisional Conference.

After 2 January 1997 the Assistant Secretary (Plasterers) of each Divisional Branch which has such a position shall by virtue of that office be a delegate to Divisional Conference.

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8 – SUPREME GOVERNING BODY IN DIVISION

Provided that if at any time there is no longer an office of Divisional Branch Assistant Secretary (Plasterer) in the Australian Capital Territory Divisional Branch, either of the following as determined by the ACT Branch Committee of Management at least three (3) months prior to the opening of nominations as prescribed by r.38 of these Rules, shall be a delegate to Divisional Conference:

- the Divisional Branch Assistant Secretary; or
- a delegate to be elected at the divisional branch elections as prescribed by r.38 of these rules.

For the avoidance of doubt, on and from the date of certification of this sub-rule, any casual vacancy occurring in the relevant National Conference Delegate position as a result of death, resignation, retirement, dismissal or for any other reason shall be filled either ex officio or via an election under Divisional Rule 38(cc) at the discretion of the ACT Branch Committee of Management.

~~The Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch (and its predecessor) shall, until 1 January 2013 only, be entitled to two delegates to the Divisional Conference of the Construction and General Division. The two delegates shall be the persons holding the offices of Industry Divisional Branch Secretary and the Industry Divisional Branch President (honorary) of the Brick, Tile, Pottery, Construction Materials and Related Products Industry Divisional Branch immediately prior to the date of certification of this paragraph of sub-rule (iii).~~

Commented [LW9]: See item 15A in summary table

Note: This sub-rule is affected by the operation of Schedule 1.

- (iii) Except as provided in sub-clause (vi) and in sub-rule (viA), [for the Divisional Branch elections scheduled for 2024 and onwards](#), Divisional Branches shall be entitled to elect, including the Divisional Branch Secretary, one delegate for the first ~~two-one (12)~~ thousand members or part thereof and one delegate for each succeeding ~~two-one (12)~~ thousand members or part thereof.

Commented [LW10]: See Item 1 in summary table

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW11]: This is a reference to Schedule 1, Item 7 - adds a new para to the effect that the calculation is kept separate for Vic and SA. Delegates need to be members in relevant state

- (iv) For the purpose of this Rule the formula which shall apply to determine the number of members of a Divisional Branch shall be to divide the amount of Divisional Branch income referred to in Rule 14 (i) received each of the three years prior to the elections by the amount of the annual contribution for that year. Those amounts to be totalled then divided by three to obtain the average number of members on which the Divisional Branch is entitled to elect delegates.

Provided that where the Divisional Branch has not existed for three (3) years the divisor shall be twice the number of half years up to a maximum of six (6) that the Divisional Branch has existed and the Divisional Branch income referred to shall be for the corresponding period.

Further provided that where a Divisional Branch has been the subject of changes in its structure or membership by virtue of a restructuring in whole or part, or an amalgamation, which restructuring or amalgamation has occurred less than three years prior to the elections referred to in the first paragraph of this sub-rule, the Divisional Branch shall be treated, for the purposes of this sub-rule, as if it came into existence on the last such change in structure or amalgamation, and the calculation shall be made in accordance with the immediately preceding proviso.

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The Divisional Secretary and the Divisional Assistant Secretary/s shall have the same voting and other rights as other delegates to the Conference.

The existing elected officers of the Divisional Executive shall remain in office until the election of their successors.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW12]: This is a reference to Schedule 1, Item 8 which adds a para after the third para to the effect that SA and Vic-Tas numbers calculated as if they were still separate branches

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8 – SUPREME GOVERNING BODY IN DIVISION

- (v) Should any delegate die or resign or otherwise cease to be a delegate, or for any other reason a Divisional Conference delegate's position is not filled, thus causing an extraordinary vacancy, the Divisional Branch Executive of the Divisional Branch of which the member is a delegate may forthwith cause an election for another member or where the unexpired part of the term of that vacant or unfilled office does not exceed three quarters of the term of office the Divisional Branch Executive may appoint another member to be the delegate of the Divisional Branch in place of the delegate who is deceased or has resigned or otherwise ceased to be a delegate or to fill the otherwise vacant position. Provided such delegate so elected shall hold office only for the residue of the term of the predecessor.
- (vi) Divisional Branches, may where elected delegates to Divisional Conference agree, arrange multiple voting representation at a Divisional Conference by notifying the Divisional Secretary prior to the beginning of the Divisional Conference of the number of delegates to be credentialled and of the arrangements for proxy voting to be adopted by that/those delegate/s to Divisional Conference.

Where a delegate is unable to attend a meeting of the Divisional Conference or any part thereof that delegate may appoint another elected delegate to Divisional Conference from the same Divisional Branch as proxy to act in his stead. Where a delegate is the only representative of a Divisional Branch and is to be absent from Divisional Conference the delegate may appoint an elected delegate from another Divisional Branch of this Division, or any other Divisional Conference member as the delegate's proxy.

- (viA) ~~For the purposes only of elections for the Australian Capital Territory Divisional Branch offices of delegates to Divisional Conference the electorate in respect of the delegate to Divisional Conference provided for in this sub-rule comprises all of the members of the Division who are residing or employed in the Northern Territory and who are members of the Australian Capital Territory Divisional Branch. For the avoidance of doubt it is provided that for the purposes of calculating the entitlement of the Australian Capital Territory Divisional Branch pursuant to sub-rules (iii) and (iv) of this Rule the members of that Branch who are residing or employed in the Northern Territory shall not be included and all other provisions affecting the entitlement of that Branch to delegates to Divisional Conference shall continue to apply.~~

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Commented [LW13]: See item 16 in summary table

~~Forthwith after the commencement of this sub-rule an election shall be conducted by and from the members of the Australian Capital Territory Divisional Branch who are residing or employed in the Northern Territory for the office of "ACT Divisional Branch Northern Territory delegate to Divisional Conference". On and from the declaration of that election the delegate elected shall have all the rights and responsibilities of delegates to Divisional Conference who took office on 1 January 2005 and shall hold office until the expiry of the terms of office of all other delegates to Divisional Conference under these Rules. Thereafter the delegate elected pursuant to this sub-rule shall hold office for the same term as all other delegates to Divisional Conference.~~

~~From 2 January 2009 or the declaration of the Divisional Branch elections in 2008, whichever is the later, the office of ACT Divisional Branch Northern Territory delegate to Divisional Conference shall cease to exist and a new office of Western Australian Divisional Branch (Northern Territory) delegate to Divisional Conference shall be created in lieu thereof. The provisions of the preceding two paragraphs of this sub-rule shall apply, *mutatis mutandis*, with respect to the office of Western Australian Divisional Branch (Northern Territory) delegate to Divisional Conference.~~

~~From 2 January 2013 or the declaration of the Divisional Branch elections in 2012, whichever is the later, the office of Western Australian Divisional Branch (Northern Territory) delegate to Divisional Conference shall cease to exist and a new office of There shall be a Queensland Northern Territory Divisional Branch (Northern Territory) delegate to Divisional Conference, shall be created in lieu thereof. The provisions of the first two paragraphs of this sub-rule shall apply, *mutatis mutandis*, with respect to the office of Queensland Northern Territory Divisional Branch (Northern Territory) delegate to Divisional Conference.~~

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8 – SUPREME GOVERNING BODY IN DIVISION

- (vii) Notwithstanding anything to the contrary in the preceding sub-rules, in the case of the Victoria-Tasmania Divisional Branch the Divisional Branch Secretary and the ~~two~~ two Divisional Branch Assistant Secretaries ~~(FEDEFA)~~ shall, by virtue of being elected or otherwise holding such offices, automatically be among the Victoria-Tasmania Divisional Branch delegates to Divisional Conference. These ex-officio positions shall occupy the first ~~two~~ three of the allocated number of delegates for the Victoria-Tasmania Divisional Branch calculated in accordance with sub-rule (iii) hereof.

Note: This sub-rule is affected by the operation of Schedule 1.

- (viiA) ~~[Deleted] Those members of the QNTDB and the QBLDB who held office as Divisional Conference Delegates on the day preceding the commencement day shall continue in office and be Divisional Conference Delegates for the QNTDB.~~

- (viii) The method of calling nominations and the election of Divisional Branch delegates to Divisional Conference shall be under the provisions of Rule 17 of the National Rules.

Full time Divisional Officers, (Divisional Secretary, Divisional Assistant Secretaries) and Divisional President and full-time National Officers, may nominate in such elections, either in the Divisional Branch first elected from, or another Divisional Branch provided that each Divisional Officer shall notify his/her intentions in writing to the Divisional Branch Secretary concerned prior to the date of calling for nominations in such elections.

Provided further that the number of Divisional Branch delegates to Divisional Conference shall, in relation to any Divisional Branch in which an officer or officers referred to in the immediately preceding subparagraph nominates, be increased by the number of such officers nominating in that Divisional Branch.

- (ix) Six (6) delegates shall form a quorum of the Divisional Conference.
- (x) Unless otherwise determined by the Divisional Executive, the Divisional Executive shall meet the cost of an economy plane fare for delegates and Divisional Officers attending Divisional Conference. All other expenses for delegates other than full time Divisional Officers shall be met by the Divisional Branches concerned.
- (xi) The Divisional Conference shall have power:
- To take such steps, subject to the rules of the Union, as it shall think fit to carry out all or any of the objects of the Union as they relate to the Division and to raise or spend such funds as are necessary to carry out the objects.
 - To decide the general policy of the Division and to take steps to enforce the carrying out of such policy.
 - Subject to any other rule to impose penalties, (i.e. fines not exceeding the sum of twenty dollars, suspension, expulsion or dismissal from office), on officers, members, representatives, committee members or delegates of the Division, for knowingly refusing to comply with the rules of the Union or decisions of the Divisional Conference, Divisional Executive or any Divisional Branch relevant to such person.

Provided that a copy of the rules, the decisions of Divisional Conference, Divisional Executive or relevant Divisional Branch are available to members at each Divisional Branch office.

Commented [LW14]: See item 17 in summary table (and Item 9 of Schedule 1)

Commented [LW15]: This is a reference to Schedule 1, item 9 which changes refs to Vic-Tas to Vic-Tas-SA branch

Commented [LW16]: See item 15B in summary table

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8 – SUPREME GOVERNING BODY IN DIVISION

No penalty shall be imposed unless -

- (i) The officer, member, representative, committee member or delegate concerned has been summoned to attend the meeting at least seven (7) days prior to the meeting;
- (ii) Particulars are given in the summons of the offence alleged, including the time and place it is alleged the offence was committed;
- (iii) He/she is afforded an opportunity of being present at the hearing and of being heard in their own defence, including an opportunity to cross-examine and to give and call evidence.

Period of suspension imposed under this rule shall not exceed six (6) months.

- (d) To hear and decide any appeal from a Divisional Branch on an issue concerned solely with a matter affecting this Division, from a Divisional Branch or Sub-Branch or member. Any appeal from a member must be forwarded through the Divisional Branch Committee.

Reasonable notice of the time and place of the hearing shall be given to all parties involved, who shall be given an opportunity of being heard. Provided that in the case of an appeal from a Branch of the Union, the Branch shall have the right to appeal any decision of the Divisional Conference or Divisional Executive to the National Executive.

- (e) To settle disputes between Divisional Branches. Any Divisional Branch concerned shall be given reasonable notice of the meeting and an opportunity of being heard before any settlement is effected.
 - (f) To deal with and decide any matter submitted to it by any Divisional Branch of the Division.
 - (g) To confirm, over-rule or otherwise deal with decisions of the Divisional Executive or Divisional Branches of this Division.
 - (h) To establish Divisional Branches of the Division and subject to Rule 11 to close any Divisional Branch and deal with any Divisional Branch in a like manner as the Divisional Executive may.
 - (j) To hear and decide any appeal from the Divisional Executive. Reasonable notice of the time of the place of the hearing of such appeal shall be given to all parties involved, who shall be given an opportunity of being heard and/or placing submissions before the Divisional Conference.
 - (k) To make, alter and rescind rules of this Division or any Divisional Branch of this Division
 - (l) To elect Divisional Trustees as set out in Rule 9.
- (xii) A Divisional Conference shall be held biennially at such place and time as the Divisional Executive shall decide.
 - (xiii) The business to be dealt with by Divisional Conference shall be shown on the agenda paper, but matters may be added to the agenda paper if agreed to by the Divisional Conference in session. Any matter appearing on the agenda paper may be amended by Divisional Conference.
 - (xiv) Notice of every Divisional Conference, together with a copy of the agenda paper, shall be posted by the Divisional Secretary to each Divisional Branch Secretary at least one (1) week before the date of such meeting but failure to notify will not of itself vitiate a meeting. Notice shall also be posted to all delegates so as to give them at least the notice provided for herein.

9 – DIVISIONAL EXECUTIVE

- (xv) A copy of the minutes containing all decisions and business of the Divisional Conference shall be forwarded to each Divisional Branch Secretary within one month of the conclusion of each Divisional Conference. Any member of the division may, upon request to the Divisional Branch Secretary, inspect a copy of the minutes of each Divisional Conference at the Divisional Branch Office during the ordinary hours in which the Divisional Branch Office is open.
- (xvi) The Divisional Secretary on receipt of resolutions from a majority of Divisional Branches or on receipt of a petition signed by not less than 10 percent of the financial members of the Division calling for a Special Divisional Conference shall call such Divisional Conference within thirty (30) days. Members of Divisional Conference shall be given seven (7) days' notice if practicable.

Notice shall be given by telephone, letter, facsimile, email and/or any other form of communications.

The Divisional Secretary may at any time thought fit conduct a postal, telephonic, facsimile, electronic and/or any other form of vote of members of Divisional Conference to obtain a decision on any matter provided that any Delegate from a Divisional Branch that is an Unfinancial Divisional Branch as at the date of the vote or the date of conclusion of a vote, by the above manners of obtaining a decision shall not have his or her vote counted or shall not be able to vote, as the case may be.

- (xvii) The Divisional Conference shall have and exercise all of the powers of the Divisional Executive and shall deal with any matter or matters referred to it by the Divisional Executive.

Where any matter or matters is/are referred to the Divisional Conference by the Divisional Executive in accordance with this sub-paragraph, the Divisional Secretary may call a Special Divisional Conference in the same way as if he/she had received a resolution from a majority of Divisional Branches or a petition signed by not less than 10 per cent of the financial members of the Division calling for such Conference, in accordance with sub-paragraph xv) herein. In all other respects the provision of sub-paragraph xv) herein shall apply.

9 – DIVISIONAL EXECUTIVE

- 1.A For the purpose of the quadrennial Divisional elections to be held in 2013 and thereafter, the Divisional Executive shall be composed of one (1) Divisional President, one (1) Divisional Senior Vice President, one (1) Divisional Vice President, one (1) Divisional Secretary, two (2) Divisional Assistant Secretaries and such Divisional Branch Secretaries who are not elected to any of the aforementioned positions on the Divisional Executive.

Provided that where a Divisional Branch Secretary also holds the office of Divisional Secretary, the position he or she otherwise would have held on the Divisional Executive as Divisional Branch Secretary shall be held by a Divisional Branch Assistant Secretary from that Divisional Branch.

Further, provided that in addition to the Divisional Executive members referred to in the immediately preceding paragraph, there shall be an additional Divisional Executive member for any Divisional Branch with a financial membership exceeding 10,000 members, for each succeeding 10,000 financial members or part thereof within that Divisional Branch. For the purpose of this sub-rule the number of financial members shall be the number of such members as at 31 March in the year of the election. Such additional Divisional Executive members shall, notwithstanding sub-rule 2 herein, be nominated and elected by and from the Divisional Conference delegates from the relevant Divisional Branches to which those offices relate, such election to be conducted at the same time as the election of the Divisional Executive members referred to in the preceding paragraph.

Further provided that immediately following the declaration of the result of the election/ballot in accordance with sub-rules 7 or 11 herein, as the case may be, the Divisional Returning Officer shall call for nominations from the newly elected Divisional Executive members, other than the Divisional President, Divisional Senior Vice President, Divisional Secretary and Divisional Assistant

9 – DIVISIONAL EXECUTIVE

Secretaries, for the office of Divisional Vice-President, and if necessary, conduct a ballot to determine that position.

Note: This sub-rule is affected by the operation of Schedule 1.

2. Except for the filling of extraordinary vacancies and the office of Divisional Vice-President, the Divisional Executive members and Divisional Officers shall be elected by and from the Divisional Conference held in 1993 and every subsequent four (4) years thereafter and shall hold office until the date referred to in sub-rule 9.13(a) hereof.

3. ~~[Deleted.]~~

4. Preceding such conferences the Divisional Executive shall appoint a person as Divisional Returning Officer, who shall not be the holder of any office in, and shall not be an employee of, the union or of any Branch, sub-Branch or section of the union. Such Divisional Returning Officer shall have the conduct of the election of the Divisional Executive members and Divisional Officers and three Divisional Trustees in accordance with these rules.

4A. In addition, the Divisional Returning Officer shall have the conduct of the election of two (2) members of the National Women's Committee in accordance with rule 13B of the National Rules of the Union and according to the process set out in sub-rules (5)-(12) below.

The two (2) National Women's Committee member positions must be held by women and shall be elected by and from the Divisional Conference held in 1993 and every subsequent four (4) years thereafter, and shall hold office until the date referred to in sub-rule 9.13(a) hereof.

To be clear, the two (2) National Women's Committee members are not members of the Divisional Executive.

5. Nominations shall be called for by the Returning Officer on a date fixed by the Returning Officer following the fixing by Divisional Executive pursuant to Divisional Rule 8 (xi) of a date and place for the holding of elections required under this rule and shall close fourteen days after nominations are called. Nominations shall be called by posting to each member of the Divisional Conference a notice of the opening of nominations. The Divisional Returning Officer shall call for nominations for all positions at the one time.

Nominations shall be made in writing by any member to Divisional Conference and submitted in accordance with these rules, by any delegate to Divisional Conference and such nominations must be agreed to by the candidate in writing.

The Divisional Returning Officer shall have the power in accordance with these rules to accept or reject such nominations, provided that if the Divisional Returning Officer rejects any nominations the following provisions shall have effect -

- (a) The Divisional Returning Officer shall notify the person concerned of the defect in the nomination; and
- (b) The Divisional Returning Officer shall, where it is practicable to do so, give the person concerned the opportunity if possible, of remedying the defect.

In any year in which an election under this rule is due the Divisional Executive, pursuant to its power under sub-rule 8 (xi) to fix the time and place for the holding of a Divisional Conference, shall fix the time and place for the Biennial Divisional Conference on any date in that year, provided that:

- (i) any elections required in that year may be conducted at the Biennial Divisional Conference with the persons elected taking office on the date referred to in sub-rule 9.13(a) of these rules;

Commented [LW17]: This is a reference to Schedule 1, Item 10 which adds at the end a para that says that during the amalgamation the SA Sub-Branch secretary is a member of Div Exec

9 – DIVISIONAL EXECUTIVE

- (ii) Divisional Executive may determine that the elections will be conducted at a Special Divisional Conference and may fix a time and place for the holding of a Special Divisional Conference for the purpose of conducting those elections with the persons elected taking office on the date referred to in sub-rule 9.13(a) of these rules; and
- (iii) in the event that Divisional Executive determines to hold a Special Divisional Conference for the purpose of conducting elections under paragraph (ii) above, Divisional Executive shall also determine a date and place for the holding of Biennial Divisional Conference in that year.
- (iv) Where the Biennial Divisional Conference or any Special Divisional Conference is to be held and/or fixed pursuant to this rule and the said Conference is to be conducted over more than one day, the Divisional Executive may fix the day of the Divisional Conference on which the election shall be held.

6. The ballot for Divisional Secretary shall be dealt with and completed. The ballot for the Divisional Assistant Secretaries shall be dealt with and completed. The ballot for the Divisional President shall be dealt with and completed. The ballot for the Divisional Senior Vice President shall be dealt with and completed. -The confirmation of election of such Divisional Branch Secretaries and Plasterers representatives who are not elected to any of the aforementioned positions on the Divisional Executive shall be dealt with and completed.

The ballot for the Additional Divisional Executive members as defined in sub-rule 1A hereof shall be dealt with and completed.

The ballot for the three (3) Divisional Trustees shall be dealt with and completed. Where a particular ballot is delayed subject to the operation of sub-clause (10) other ballots shall be proceeded with at Divisional Conference.

Following the election of three (3) trustees the Returning Officer shall call nominations to determine which of the two (2) Divisional Assistant Secretaries will be the designated Divisional Assistant Secretary and if necessary conduct a ballot to determine the election.

The ballot for the two (2) members of the National Women's Committee shall be dealt with and completed.

7. If the nominations are equal to the number of positions to be filled the Divisional Returning Officer shall forthwith declare to the Divisional Conference that such candidates are elected. An officer shall not hold more than one position on the Divisional Executive except the position of Trustee may be held by a member of the Divisional Executive other than a full-time Divisional Officer, and the Divisional Secretary may concurrently hold a full-time office in a Divisional Branch.
8. If there are more candidates than the number required for filling the office/s the Divisional Returning Officer shall prepare voting papers and conduct the ballot.
9. The election shall be by secret ballot and any candidate may appoint a Scrutineer by notification in writing to the Divisional Returning Officer prior to the commencement of the ballot whose duty it shall be to watch the interest of the candidate at all stages of the ballot. Such a scrutineer shall represent and may be present at any stage of the counting of the ballot provided that the Divisional Returning Officer is also present and shall do all things necessary to preserve the secrecy of the ballot and conduct themselves in a sober, proper and impartial manner and obey any directions given to them by the Divisional Returning Officer. If any scrutineer or scrutineers are not present at any stage or stages of the ballot the Divisional Branch Returning Officer may proceed nonetheless.
10. Any delegate to Divisional Conference who will not be present, either personally or by proxy, at the meeting at which an election is to be held, may lodge with the Divisional Returning Officer a request for an absentee vote together with an address where he can receive communications and, if any

~~105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]~~ ~~105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]~~

9 – DIVISIONAL EXECUTIVE

delegate has done so, the Divisional Returning Officer shall not declare the result of the ballot until he has given such delegates a reasonable opportunity to vote.

11. The Divisional Returning Officer shall declare to Divisional Conference the result of the ballot as soon as the count is completed. In the event of a tie, the Divisional Returning Officer shall determine the result by casting lots.
12. Except insofar as any Act from time to time provides otherwise, whenever any member has been declared elected to any office the member declared to be elected to such office, notwithstanding any defect or irregularity which may have occurred in or in connection with the calling for and dealing with nominations or the conduct of the ballot shall be recognised as validly entitled to hold such office on and from the date referred to in 13(a) of this rule.
13. (a) A Divisional Executive member shall hold office until 15 October in a year in which an election is required in accordance with these rules or until the Sunday immediately following the declaration of their successor's election at Divisional Conference (whichever is later).
14. (a) Where a casual vacancy occurs in any office under these rules as a result of death, resignation, retirement, dismissal or for any other reason, such vacancy may be filled by appointment by the Divisional Executive provided that the person so appointed shall hold office for as much of the unexpired part of the term of the office as does not exceed -
 - (1) 12 months or
 - (2) three quarters of the term of the office whichever is the greater.
- (b) Where the unexpired part of the term of office exceeds that specified in 14 (a) of this rule, the Divisional Returning Officer shall conduct an election of Divisional Conference delegates to fill the vacant position, the person elected shall hold office for the remaining term of office.

The Divisional Executive may decide that where sub-rule (b) applies such an election be conducted at a Special Divisional Conference or by a secret postal ballot of delegates at Divisional Conference in terms of Rule 17 of the National Rules of the Union as modified to suit the requirements of the election.
- (c) For the avoidance of doubt, on and from the date of certification of this sub-rule 14(c), the provisions of this sub-rule 14 shall apply to the filling of any casual vacancy occurring in the office of Senior Vice-President as a result of death, resignation, retirement, dismissal or for any other reason.
- (d) For the avoidance of doubt, on and from the date of certification of this sub-rule 14(d), the provisions of this sub-rule 14 shall apply to the filling of any casual vacancy occurring in the National Women's Committee positions as a result of death, resignation, retirement, dismissal or for any other reason.
15. The Divisional Executive shall, have and may exercise, subject to the review of its actions by Divisional Conference, the care, control, superintendence, management and administration in all respects of the affairs, business, Divisional funds and property of the Division and have and exercise all of the powers of the Divisional Conference, and, without limiting the generality of the foregoing it may -
 - (a) Interpret and enforce the general policy of the Division.
 - (b) Control and conduct the business and affairs of the Division.
 - (c) Appoint the editor of any Divisional journal and manage and control the policy of the journal.

~~105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]~~ ~~105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]~~

9 – DIVISIONAL EXECUTIVE

- (d) Hear and decide any appeal from any Divisional Branch. Reasonable notice of the time and place of the hearing shall be given to all parties involved, who shall be given an opportunity of being heard.
- (e) Settle disputes between Divisional Branches. Any Divisional Branch concerned shall be given reasonable notice of the meeting and an opportunity of being heard before any settlement is effected.
- (f) Expend such moneys by way of ordinary expenditure of the Division as may be necessary.
- (g) Submit any matter to the members for decision by ballot.
- (h) Ensure that officers, committee members, delegates or members of the Division and Divisional Branches carry out the rules and decisions of the union and subject to Rule 11 impose penalties (i.e., fines not exceeding the sum of twenty dollars, suspension, expulsion or dismissal from office,) on officers, members, representatives, committee members or delegates of or to the Division for knowingly refusing to comply with the rules or the decisions of the Divisional Executive. Provided that the rules or the decisions of the Divisional Executive are available to members in the minutes of the Divisional Executive and the registered rules of the union and the Division are available at each Branch office. No penalty shall be imposed unless –
 - (i) The officer, member, representative, committee member or delegate concerned has been summoned to attend the meeting seven (7) days prior to the meeting;
 - (ii) Notice of the charge or allegation is given sufficient to enable a reply.
 - (iii) He/she is afforded an opportunity of being present at the hearing and of being heard in their own defence, including an opportunity to cross-examine and to give and call evidence.

Period of suspension imposed under these rules shall not exceed six months.

- (j) Take such action as may be necessary to secure the satisfactory working of any Divisional Branch of this Division and, subject to Rule 11, suspend or dismiss all or any members holding positions in, or for, a Divisional Branch and the appointment of a member of the Divisional Executive or any other member or members of the Union to conduct the affairs of such Divisional Branch. Provided that an election or appointment shall be held within three (3) months therefrom.

Reasonable notice of the time and place of the meeting shall be given to the Divisional Branch and to all parties involved, who shall be given an opportunity of being heard before any action is taken.

- (k) Control and supervise the work of the Divisional Officers.
- (l)
 - (i) All decisions of the Divisional Executive shall be made by a majority of the members present at the meeting unless otherwise provided by these rules.
 - (ii) Where two (2) members of the Divisional Executive request, prior to a matter being put to a vote, that a card vote be conducted with respect to any matter, such a card vote shall be conducted in accordance with this rule. In the absence of such a request, the provisions of (i) above shall apply.
 - (iii) Where a card vote is requested in accordance with (ii) above, each member of the Divisional Executive shall be entitled to exercise one vote provided however that

9 – DIVISIONAL EXECUTIVE

any Divisional Branch Secretary shall be entitled to exercise additional ordinary votes based on the principle of one additional ordinary vote for each 2000 members or part thereof over and above the first 2000 members of the Divisional Branch from which the Divisional Branch Secretary derives.

- (iv) The manner of determining the number of members of any Divisional Branch for the purposes of (iii) above, shall be the same as the formula which applies in respect of membership numbers for the purposes of determining Divisional Branch representation to Divisional Conference as set out in rule 8(iv) of these Divisional rules.
- (v) Where a card vote is conducted, the matter shall be determined by a majority of votes cast including additional votes as provided for in (ii) to (iv) herein.

Note: This sub-rule is affected by the operation of Schedule 1.

- (m) A loan, grant or donation of an amount exceeding \$1,000 shall not be made by this Division unless the Divisional Executive -
 - (i) has satisfied itself -
 - (a) that the making of the loan, grant or donation would be in accordance with the other rules of the Union; and
 - (b) in relation to a loan - that, in the circumstances, 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; and
 - (ii) has approved the making of the loan, grant or donation.
- (n) To make, alter and rescind rules.
- (o) Notwithstanding that a Divisional Executive member may occupy more than one office each of which would entitle them to be a member of the Divisional Executive, a member of the Divisional Executive shall be entitled to exercise one vote only (except where additional ordinary votes are cast in accordance with sub-rule (1) above).

Further provided that where a Divisional Secretary or Divisional Assistant Secretary is also a member of the Divisional Executive by virtue of holding office as Divisional Branch Secretary, such Divisional Secretary or Divisional Assistant Secretary shall exercise their vote on the Divisional Executive in their capacity as a Divisional Officer only and any vote of such person as Divisional Branch Secretary [and, where applicable, any additional ordinary votes of the Divisional Branch], shall be exercised by the Divisional Branch Assistant Secretary from that Divisional Branch provided that person is otherwise a member of the Divisional Executive.

- 16. Any member of the Divisional Executive (other than the Divisional Secretary, Divisional President, Divisional Assistant Secretaries, Divisional Senior Vice-President and Divisional Vice-President) from a Divisional Branch that has more than two of the monthly capitation payments or part thereof and/or interest thereon for which the Divisional Branch is liable under sub-rule 14(i) outstanding to the Divisional Office as at the date of any meeting of the Divisional Executive shall not be entitled to attend any Divisional Executive (unless at the express invitation of one of the Divisional Officers) and in any event, shall not be entitled to move, amend or vote at any such meeting.
- 17. Meetings of the Divisional Executive shall take place at least twice per year provided however that a meeting of the Divisional Conference shall be counted as a meeting of Divisional Executive for the purpose of this rule. Further, the members of the Divisional Executive may be summoned by the Divisional Secretary to a meeting to be held at such time and place as shall be decided by the

Commented [LW18]: This is a reference to Schedule 1, Item 11 which adds a new section to deal with the card vote under the temporary amalgamation (so that votes are cast as if the amalgamation didn't happen, and additional votes for SA are held by the SA sub-branch secretary)

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11 – REMOVAL OF OFFICERS

Divisional Secretary, provided that a majority of the members of the Divisional Executive may demand a meeting of such Divisional Executive which shall be held at such time and place as stipulated by such members of the Divisional Executive. The quorum for any meeting shall be six. Notice of meetings may be given by letter, facsimile, email or other electronic means or otherwise in writing or by telephone or verbally, provided that in the latter two instances such is confirmed by letter or telegram or telex or facsimile or other writing.

10 – REFERENDA

- (i) On a decision of a majority of Divisional Branches that are not Unfinancial Divisional Branches as at the date of the decision, or Divisional Branches that are not Unfinancial Divisional Branches and whose membership constitutes a majority of the members of the Division or on receipt of a petition signed by not less than 10 per cent of the financial members of the Division, Divisional Executive shall take a referendum of the whole of the members of the Division upon the matter or matters submitted by the Divisional Branches or members. A decision reached by a majority of the actual votes recorded shall be binding on the Divisional Conference Divisional Executive and the members of the Division.

Divisional Executive may at any time by its own motion take a referendum of the whole of the members of the Division upon any matter it thinks fit.

- (ii) The referendum referred to in this rule shall be conducted as follows:
- Divisional Executive shall:
- (a) Determine the question to be submitted to the members and the form of the ballot paper.
 - (b) Fix the times for the despatch and return of ballot papers and give the necessary instructions for printing of same.
 - (c) Appoint a Divisional Returning Officer and Divisional Scrutineer in conjunction with Divisional Branch Returning Officers to conduct the ballot.
 - (d) No material other than that authorised by the Divisional Executive shall be enclosed in the envelope in which the ballot paper is posted to the member.
 - (e) In all other respects the referendum shall be held as nearly as practicable in the manner provided for the holding of elections of Divisional Branch Officers.

11 – REMOVAL OF OFFICERS

- (a) (i) Any person elected to an office in the Division or a Divisional Branch Officer may be removed from office by majority decision of the Divisional Executive of the Division in which the Officer holds office, provided that such officer shall not be dismissed from office unless the officer has been found guilty, in accordance with the Rules of the Union, of misappropriation of funds of the Union or a substantial breach of the Rules of the Union or gross misbehaviour or gross neglect of duty or has ceased according to the Rules of the Union to be eligible to hold office.
- (ii) An elected officer may be charged by any member of the Division with the offences referred to 11(a)(i) above, whether the offence occurred before or after this sub-rule came into effect, and where the Divisional Executive is to consider whether or not any elected Divisional or Divisional Branch Officer is to be removed from office under sub-paragraph (i) herein, the Divisional Executive may take any, some or all of steps 1 – 5 below: procedure to be adopted shall be as follows:

Commented [LW19]: See items 29 - 31 in summary table

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11 – REMOVAL OF OFFICERS

- a) ~~The officer is to be summoned to attend the meeting at least 7 days prior to the meeting;~~
- b) ~~Notice of the charge or allegation is to be given sufficient to enable a reply;~~
- c) ~~The officer is to be afforded an opportunity of being present at the hearing and of being heard in his/her own defence, including an opportunity to cross-examine and to give and call evidence.~~

1. Determine that no further action be taken;
2. Determine that a person or persons be delegated to investigate the charge and provide a report to the Divisional Executive on matters in relation to the charge and any recommendations for dealing with the charge;
3. Determine that the charge not be dealt with pending the receipt of a report requested by the Divisional Executive under this rule;
4. Determine that an elected officer charged under this rule be directed not to carry out some or all of the duties attaching to their office pending the hearing or other consideration of any charge against that elected officer;
5. Resolve policies as to procedure and matters that may be observed prior to and during a meeting of the Divisional Executive to consider whether or not any elected Divisional or Divisional Branch Officer is to be removed from office, provided that:

A. Notice of the charge or allegation is to be given sufficient to enable a reply by the elected officer charged;

B. The elected officer charged may provide a reply to the charge, which may include submissions and evidence;

C. The Divisional Executive may determine that such reply shall be provided at or by a time determined by the Divisional Executive:

- i. in person; and/or
- ii. in writing; and/or
- iii. by other electronic means; and/or
- iv. by a representative of the elected officer charged;

D. Should the Divisional Executive determine that a hearing should be held:

- i. such hearing may in whole or in part take place using electronic means in more than one place;
- ii. the Divisional Executive may determine that the elected officer charged, a member who has laid the relevant charge, or any other participant may be represented by another person at the hearing;
- iii. the elected officer charged is to be provided at least 7 days' notice of such hearing;
- iv. should the elected officer charged fail to appear at the hearing and fail to provide a satisfactory explanation for their non-attendance, the Divisional Executive may proceed with the hearing of in their absence provided it is first satisfied that notice of the hearing in accordance with this rule has been served on the elected officer;

E. Notwithstanding rule 49(e) of these rules, the Divisional Executive may:

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13 – DUTIES OF OFFICERS

- i. direct the elected officer charged to attend an independent medical examination to determine the officer's fitness to face charges and/or perform the duties of their office;
- ii. consider any report of the independent medical examiner or other evidence and determine whether or not to hold or proceed with a meeting or hearing under this rule to consider whether or not the elected officer charged is to be removed from office.

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(b) Should any elected officer be removed from office the Divisional Executive may appoint a member to fill the vacancy until the next elections are held and a successor takes office in accordance with the rules, but no person shall be appointed to an office, otherwise than temporarily, where the remainder of the term of office is twelve (12) months or three quarters of the term whichever is the greater.

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(c) Any elected officer so removed from office shall have the right of appeal to the Divisional Conference and therefrom to the National Executive or National Conference.

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In the event of the appeal being upheld the Divisional Conference, National Executive or National Conference may order reinstatement to apply on such conditions as it considers the circumstances warrant.

(d) In the event of the re-election of an Officer removed from office under this rule, such elected officer shall be reimbursed by a payment of monies that represent the difference between such salary that would have received had the officer not been removed from office and the amount of salary the officer received during the period that the officer was removed from office.

(e) “Office” under this rule has the same meaning as provided in the *Fair Work (Registered Organisations) Act 2009*.

12 – VACANCIES IN OFFICE

Subject to the Act and other rules dealing with this subject, if any vacancy shall occur by death, resignation or otherwise in any Divisional or Divisional Branch office such office may be filled by the Divisional Executive until a ballot can be held to fill the vacancy.

13 – DUTIES OF OFFICERS

(i) Divisional President:

The Divisional President shall preside at meetings of Divisional Executive and meetings convened by Divisional Executive.

The Divisional President shall have a deliberative vote only.

The Divisional President shall carry out such other functions as shall be determined from time to time by the Divisional Executive. In cases where he is a full time officer he shall be under the control of the Divisional Secretary.

(ii) Divisional Secretary:

The Divisional Secretary shall be responsible for the general correspondence of the Division, Divisional finance, filing of documents for the Division, industrial returns that are required to be

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13 – DUTIES OF OFFICERS

made by the Division and the carrying out of decisions made by the Divisional Conference or Divisional Executive or by the National Conference or National Executive.

The Divisional Secretary shall have the power, subject to decisions of the Divisional Executive, Divisional Conference, National Executive and/or National Conference, to appoint, control and dismiss the staff of the Divisional Office.

The Divisional Secretary shall have prepared a properly audited financial statement of receipts and payments and all the funds and effects of the Divisional Office, together with a statement of the assets and liabilities of the Divisional Office for the year ending 31st December in each financial year. Such financial statement to be made available to Divisional Conference, Executive, National Conference, National Executive, National Secretary and Divisional Branches of this Division. Provided however that the financial year for the Division shall, on and from 1 April 2017, and for each year thereafter, commence on and from 1 April each year and end on 31 March of each following year.

The Divisional Secretary shall carry out such other functions as shall be determined from time to time by the Divisional Executive, National Conference or National Executive and allocate the duties of Divisional Officers.

The Divisional Secretary may concurrently hold a full-time office in a Divisional Branch.

(iii) Divisional Assistant Secretaries:

Divisional Assistant Secretaries and any other full-time Divisional Officer at the Divisional level shall perform all duties assigned to them by the Divisional Executive, National Conference or the National Executive.

They shall be under the control of the Divisional Secretary. They shall attend all meetings of Divisional Executive, National Conference and National Executive.

The Divisional Assistant Secretary who has been designated as the Divisional Senior Assistant Secretary in terms of Rule 9 sub-rule 6 shall fulfil all duties and responsibilities of the Divisional Secretary while on approved leave of absence except in respect of those duties decided otherwise by the Divisional Executive.

The office of Divisional Assistant Secretary may be resolved to be either a full-time or honorary office, by decision of the Divisional Executive made not less than 70 days prior to the calling of nominations for that office. Where a casual vacancy arises in that office, Divisional Executive may, prior to filling the vacancy under rule 12, resolve whether the office is to be filled on an honorary or full-time basis.

(iv) Divisional Senior Vice-President:

The Divisional Senior Vice-President shall assist the Divisional President in the conduct of meetings and shall preside in the absence of the Divisional President, and shall carry out such other duties as shall be determined from time to time by the Divisional Executive.

~~One of the Divisional Senior Vice Presidents shall until the election of Divisional Officers after 2 January 1997 be a representative of Painters and that Divisional Senior Vice President shall be a full-time officer of the Division.~~

Commented [LW20]: See item 18 in summary table

(v) Divisional Vice-President:

The Divisional Vice-President shall assist the Divisional President or Senior Vice-President in the conduct of meetings and, in the absence of both the abovementioned officers, shall act as President.

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15 – AUDITOR

The Divisional Vice-President shall carry out such other duties as shall be determined from time to time by the Divisional Executive.

(vi) Divisional Trustees:

The Divisional Trustees shall, subject to control by the Divisional Executive, be responsible, together with the Divisional Secretary, for the finance, property and investments of the Division.

(vii) Members of Divisional Executive:

Other members of Divisional Executive shall attend meetings of the Divisional Executive when summoned so to do and perform functions allocated by the Divisional Executive.

14 – FUNDS AND PROPERTY

(i) Each Divisional Branch shall forward to the Divisional Office such percentage of the Divisional Branch income as may be apportioned from time to time by the Divisional Executive.

A Divisional Branch that does not remit to the Divisional Office the moneys or part thereof owed by it by the time after such moneys are due and payable so that it becomes an Unfinancial Divisional Branch within the meaning of rule 3, shall in addition to those moneys, also be liable to pay to the Divisional Office interest on the unpaid amount at the percentage rate for 90-day bank bills as at the date that Divisional Branch becomes an Unfinancial Divisional Branch, on and from the said date. Such a Branch will remain an Unfinancial Divisional Branch for all purposes under these Rules until the principal sum and interest thereon specified in this sub-rule are paid to the Divisional Office.

If the Divisional Executive is of a view that the reasons for the non-payment are genuine reasons of incapacity to pay, then such interest shall not be levied.

(ii) Banking and Withdrawal: All moneys received by the Divisional Office shall be paid to the credit of the Division on current account with a bank or financial institution approved by the Divisional Executive. All funds drawn from the bank shall be authorised in writing by the Divisional Secretary, Assistant Secretaries or Divisional President and one Divisional Trustee.

(iii) All expenditure for ordinary purposes, i.e., incurred in directly furthering the objects of the Union for members of this Division or in the expenses of management of this Division or in satisfying any debt to or of the National Office, may be disbursed by decision of the Divisional Secretary and one of the Assistant Divisional Secretaries.

Expenditure for other purposes authorised by the rules may be disbursed by a majority decision of the Divisional Executive, National Conference or National Executive.

(iv) Investment of Funds: The funds of the Division shall be invested wherever possible in the name of the Union. Where this is not possible, investments shall be made in the name of the Divisional Trustees.

The funds of the Division may be invested in such securities as are permitted by the laws of any State of the Commonwealth for the investment of funds by trustees.

(v) The property of the Division shall be under the control of the Divisional Executive and shall be in the name of the Union.

15 – AUDITOR

18 – DIVISIONAL BRANCHES

The Divisional Executive shall appoint an approved auditor who shall each financial year for the period ending 31 December audit the books and accounts of the Division and draw up a correct report on same. Provided however that the financial year for the Division shall, on and from 1 April 2017, and for each year thereafter, commence on and from 1 April each year and end on 31 March of each following year.

The auditor shall, in the report, draw attention of the Divisional Executive, National Conference and National Executive to any deficiencies or other matters which the auditor may think proper. The auditor shall have full and complete access to all the books and documents of the Division.

Upon receipt by the Divisional Secretary of a petition, signed by not less than 5% of the members of the Division, requesting that a general meeting of members of the Division be called for the purpose of considering the auditor's report, the general purpose financial report and the operating report of the Division, the Divisional Secretary shall convene such meeting as soon as is practicable.

16 – ALTERATION OF RULES

These Divisional Rules and any Divisional Branch Rules of this Division may be altered or rescinded or new rules made by the Divisional Executive. Proposals for alterations of such rules may also be proposed by Divisional Branches and shall be forwarded with the notice calling the Divisional Executive.

Provided that Divisional Executive in session may alter such rules although previous notice has not been given.

Nothing in this rule affects the right of the Divisional Executive to vote on any matter, including rules, otherwise than at a meeting assembled.

17 – RULES BINDING ON MEMBERS AND DIVISIONAL BRANCHES

These Divisional Rules, and all alterations, additions or rescissions thereof or thereto, shall apply to and be binding on all Divisional Branches of this Division and on all members who now, or who may hereafter, belong to the Division until they are made or become null and void according to law.

18 – DIVISIONAL BRANCHES

- (a) There shall be Divisional Branches of the Division in each of the States and in the Australian Capital Territory, and in such other States or places as may be decided. The Divisional Executive may establish more than one Divisional Branch in any area and may do so on occupational or sub-industry bases, or may establish a single Divisional Branch for two or more States, Territories or places.

Such Divisional Branches shall be known as the Construction and General Division, New South Wales Divisional Branch, or as the case may be; or, with the approval of the National Executive or National Conference the Divisional Branch may be known by some other name.

- (b) ~~(i)~~ In Victoria and Tasmania, the Divisional Branch shall be known as the Construction and General Division, Victoria-Tasmania Divisional Branch. Further, in the State of Tasmania there shall be a sub-branch of the Victoria-Tasmania Divisional Branch which shall be known as the Construction and General Division, Victoria-Tasmania Divisional Branch, Tasmania Sub-Branch.

~~(ii) ~~[Deleted]~~~~

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW21]: See item 26A in summary table

Commented [LW22]: This is a reference to Schedule 1, Item 12 which replaces (b) in its entirety to update name and create SA sub-branch and which says that SA branch will be re-established unless Div Exec determines otherwise

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19 – DIVISIONAL BRANCH RULES

- (c) In Western Australia, as a result of an agreement between the two Divisional Branch Secretaries prior to integration, the Divisional Branch Secretary of the integrated Divisional Branch shall be the principal officer and spokesperson for the Divisional Branch.
- (d) ~~[Deleted] Victoria~~
- ~~(i) The Victorian Divisional Branch shall have the control and management of all funds, assets and liabilities that had been controlled, held or managed by the Victorian FEDFA Divisional Branch and the Victorian Building Unions Divisional Branch immediately prior to the certification of this sub-rule.~~
- ~~(ii) The transfer of funds, assets and liabilities mentioned in the preceding sub-rule shall occur subject to any transfer of funds, assets and liabilities from the Victorian FEDFA Divisional Branch to the Mining and Energy Division in accordance with the rules of the CFMEU.~~
- (e) All Divisional Branches mentioned herein shall for all purposes be and remain an inseparable part of the Division by which they are established.

Commented [LW23]: See item 26 in summary table

19 – DIVISIONAL BRANCH RULES

- (i) Divisional Branches shall have rules set out herein. Divisional Branches may in accordance with the Divisional Branch rules hereto, make By Laws not inconsistent with these Rules or the National Rules and not inconsistent with the Laws of the Commonwealth. In the event of any such inconsistency the Divisional Branch By Law shall be void to the extent of such inconsistency.

Where any rule of a Divisional Branch allows for representation for different classifications of membership within the union such representation shall be reviewed by the Divisional Secretary no later than two months prior to the calling of nominations in that election so that representation of the classifications is based on the principle that the will of the majority shall not be thwarted and that there is appropriate representation of each such classification in the decision making bodies of the Divisional Branch concerned.

For the purpose of determining the two principles outlined in paragraph two herein, the aggregate membership over the 4 completed membership years immediately preceding the opening of nominations shall be averaged for the purpose of calculating the percentage of membership belonging to that classification. The proportion and representation decided upon in the manner outlined herein shall be reflected in the positions outlined in the rules for which nominations are called and shall remain the same (subject to any further decision of the Divisional Executive) for the period of office of the persons elected thereat.

Provided that where the classification has existed for less than four (4) years such lesser time shall be used for the purposes of the calculation.

- (ii) (a) Subject to sub-rule (c) hereof, unless expressly authorised by Divisional Conference or Divisional Executive, the powers and duties conferred by these Rules on Divisional Branch Council and Divisional Branch Executive Committees and the officers, organisers, full-time paid officials and employees thereof are exercisable only in respect of the members of those Divisional Branches and persons within the geographic area and occupational categories within the State or Territory for which the Divisional Branch is responsible.
- (b) Subject to sub-rule (c) hereof, unless expressly authorised by Divisional Conference or Divisional Executive, no officer, organiser, full-time paid official or employee of any Divisional Branch shall be authorised or permitted to perform any of the functions or duties conferred on such officers, organisers, full-time paid officials or employees by these rules,

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23 – PRINCIPAL OFFICER

or to hold themselves out as an officer, organiser, full-time paid official or employee of the Union, other than within the geographic area and occupational categories within the State or Territory for which the Divisional Branch is responsible.

- (c) Nothing in sub-rules (a) and (b) hereof shall limit the rights of office holders to perform their duties as members of Divisional or National governing bodies in accordance with the rules, being those matters specified in rule 13 of these Rules and rule 22 of the National Rules of the Union. Further provided that sub-rule (b) hereof shall not apply where Divisional Branch officers, organisers, full-time paid officials or members carry out work in a Divisional Branch (other than a Divisional Branch in which such person is elected, appointed or engaged) pursuant to a resolution of the Divisional Branch Management Committee of the Divisional Branch in which such work is undertaken, and in accordance with the terms of that resolution.

20 – EXECUTION OF AGREEMENTS, ETC

Industrial Agreements and other instruments that may be needed by or on behalf of the Division shall be executed by the Divisional Secretary or such other Divisional Officer as authorised by the Divisional Executive.

21 – SUBMISSION OF INDUSTRIAL DISPUTES

An industrial dispute affecting the members of this Division may be submitted to conciliation or arbitration upon a resolution in favour of submitting such dispute carried by a majority of the members of the Divisional Executive or by the Divisional Secretary.

The Divisional Executive and the Divisional Secretary shall have full power to transact all business and do or authorise all acts and things in connection with such dispute and it or he may delegate it or his functions either generally or specifically.

22 – DIVISIONAL OFFICE

The office of the Division shall be the office of the Divisional Secretary and shall be at 12/276 Pitt Street, Sydney, or such place as Divisional Executive shall decide.

There shall be an annexe at 500 Swanston Street, Melbourne in the State of Victoria.

23 – PRINCIPAL OFFICER

- (i) The Divisional Secretary shall be the Principal Officer of the Division.
- (ii) In the case of a breach of legislation, Award or Agreement or other matter affecting a member of the Division, the Divisional Secretary or any Divisional Branch Secretary or other person or body authorised by Divisional Branch Rules to which the member belongs shall have the power to take such legal proceedings as are necessary to enforce the legislation, Award or Agreement, or to seek penalties against an employer for such breaches.

24 – RECOVERY OF DUES

All claims for contributions, levies, fines, fees or liabilities of any kind due or payable to the Union by members of the Division may be sued for in the name of the Union by the Divisional Secretary or by the Divisional Branch Secretary of the Branch to which the member is attached or by any person or body authorised by these rules or the rules of the Divisional Branch.

25 – LEVIES

- (i) Levies may be imposed for the purpose of carrying out any of the objects of the Union and for assisting the members of this or any other Union or body having objects similar in whole or in part to those of this Union.
- (ii) The amount of any levy may be decided by a majority of the Divisional Executive and when so decided shall be binding on all members or sections of members as the Divisional Executive may decide.
- (iii) A Divisional Branch may impose a levy on its members.
- (iv) A levy may be of one specific sum, payable at one specific time, or may be for a weekly, fortnightly or monthly period, payable for a certain specific period.

All levies shall be added to contributions and shall be a first charge against all payments made by members of the Divisional Branch.

26 – VOTING OTHER THAN AT MEETINGS

- (a) If the Divisional Secretary shall consider it advisable to submit any matter, including the imposition of a levy or the alteration, rescission or making of rules to a vote of Divisional Executive members at any time he may submit a resolution dealing with such matter to the members by letter, facsimile, telephone, email, verbally and/or any other means of communication or any combination thereof.
- (b) A copy of such resolution shall be sent at the same time to each Divisional Branch Secretary.
- (c) The votes on such resolution shall be returnable to the Divisional Secretary at such time as the Divisional President and the Divisional Secretary shall fix. The result of such vote shall be binding and enforceable in the same manner as a decision arrived at in meeting assembled.
- (d) No amendment shall be allowed on any such resolution, but if it is negatived any member may request the Divisional Secretary to submit in a like manner a further resolution bearing on the same matter. In the event of the Divisional Secretary being requested to submit more than one such resolution the order in which same shall be submitted shall be in his absolute discretion.
- (e) The Divisional Secretary shall keep a register of names and addresses of delegates to Divisional Conference.
- (f) Divisional Branch Secretaries shall within fourteen days of the election of delegates to Divisional Conference notify the Divisional Secretary of their names and addresses.

27 – STANDING ORDERS FOR MEETINGS

This Rule shall apply to all meetings in the Division, including Divisional Branch Management Committee meetings, but shall not apply to general Divisional Branch meetings and/or rank-and-file meetings to which Rule 64 shall apply.

This Rule operates as a guideline only and any meeting may expressly or impliedly determine a course and procedure not in accordance with these Standing Orders for Meetings. No departure from any or all parts of these Standing Orders, whether in form or substance, shall vitiate the calling of any meeting, or any resolution, discussion and decision made at any meeting or the continuation of any meeting.

(a) Motions - How Dealt With:

- (i) All motions shall be of an affirmative character and must be moved and seconded by delegates. Such motions become the property of the meeting and can only be withdrawn by leave thereof. The discussion on any motion shall not exceed 60 minutes unless a majority of delegates present agree to an extension of time.
- (ii) Unless a delegate rises to oppose a motion or propose an amendment thereto, the motion shall be immediately put to the meeting for decision.
- (iii) A motion may be superseded at any time by another motion "that it be discharged from the agenda paper" or "that the next business be proceeded with" being resolved in the affirmative.
- (iv) A motion may be amended at any time during the debate thereon always provided that the substance of the original motion be retained. If the amendment is carried it then takes the place of the motion.
- (v) Any number of amendments may be proposed and discussed with the motion. For the purpose of the debate the motion shall be the question before the chair. Amendments shall be put to the vote in the order in which they are received. If there is no further discussion, or if the motion "that the question be now put" is carried, the mover of the original motion may reply.
- (vi) All motions shall be put to the meeting by the chairperson in a clear manner by asking for the "ayes" to vote first and then the "noes". The chair's decision as to which has the majority will be final unless a show of hands is called for. The chairperson shall then count the votes for and against the question.

If the votes are equal the question is resolved in the negative.

- (vii) A mover of a motion to be allowed 15 minutes to introduce and five minutes to reply. Other speakers 10 minutes unless a majority of the delegates present agree to an extension of time.
- (viii) Right of Speaker: Any delegate desiring to speak shall rise and address the chairman. If two or more delegates rise at the same time the chairman shall call upon the one who, in his opinion, first rose.

Provided that no delegates can speak more than once upon any question (which shall include the original motion and all amendments thereto) before the meeting, except -

- (a) In reply as the mover of the original motion.
- (b) In explanation or correction of some matter during the debate.

(c) Upon a point of order raised during the debate.

(d) Upon a resolution being carried "that he now be heard".

(ix) A delegate will not be held to have spoken who simply used the words "I second the motion" or "amendment", as the case may be; but for the purpose of debate shall be considered the second speaker in favour of the proposal seconded by him.

(x) No more than two delegates shall be allowed to speak for or against any question in succession. If at the conclusion of the second speaker's remarks no member rises to speak on the other side of the motion or amendment, it shall be put to the vote.

(xi) Any delegate speaking shall at once resume his seat

(a) If the chairman rises to speak; or

(b) If a point of order is raised.

and shall not resume his speech until the point of order is decided.

(xii) No delegate may speak to any question after it has been put by the chairman or during the taking of the vote.

(b) REPORTS

A report containing a recommendation may be discussed on a motion being moved for its adoption which, upon being carried, will signify the will of Conference thereon.

If the report contains any recommendation it shall be competent for a delegate to move a resolution arising out of and relative to the report to obtain the opinion of the meeting on the matter.

(c) ADJOURNMENT OF MEETING OR DEBATE

A motion for the adjournment of the meeting may be proposed at any time or for the adjournment of the debate, and shall be at once put to the meeting by the chairman unless time is mentioned. An amendment to alter the time can be proposed upon a motion for adjournment only if time is mentioned as part of such motion and can apply thereto.

(d) ADJOURNMENT OF STATED TIME

When a motion for the adjournment of a debate to any stated day or time has been carried, such motion shall not be abrogated unless with the consent of the meeting.

(e) CHAIR'S RULINGS

The chair's rulings on all points of order shall be final unless at the time a motion is carried that such ruling be disagreed with. When a motion to disagree with the ruling of the chairperson has been duly proposed and seconded, the chairperson shall leave the chair until the motion has been disposed of by the meeting. The mover only shall speak to the motion and the chairperson may explain the reasons for the ruling given. The motion shall then be put to the meeting by the Vice-Chairperson.

(f) SUSPENSION OF ORDER OF BUSINESS

It shall be competent by a majority vote of the members present for the meeting to suspend the order of business.

30 – MEMBERSHIP

(g) SITTING AS A COMMITTEE

Divisional Executive may at any time, by a resolution agreed to by a majority of members present, resolve itself into a committee of the whole. The rules governing the business of Divisional Executive shall be observed when in Committee.

(h) DEFINITION:

In this rule "delegate" shall include any person attending a meeting.

DIVISIONAL BRANCH RULES

28 – NAME

The name of the Divisional Branches of this Division shall be as follows:-

- (a) In New South Wales, South Australia, Western Australia, and the Australian Capital Territory, "The Construction and General Division, X Divisional Branch" where X is the State or Territory concerned;
- (b) In Tasmania and Victoria "The Construction and General Division, Victoria-Tasmania Divisional Branch".

Note: This sub-rule is affected by the operation of Schedule 1.

- (c) In Queensland in accordance with Rule 18 of these rules.

Commented [LW24]: This is a reference to Schedule 1, Item 13 which just updates name of branch to include SA for the duration of the temporary amalgamation of SA and Vic-Tas

29 – ELIGIBILITY FOR MEMBERSHIP

All persons who are members of or apply for membership in the Construction and General Division of the Union residing or employed in the State or Territory concerned shall be and remain members of the Divisional Branch or Divisional Branches within that State or Territory.

Provided that notwithstanding the provisions of any other rule, all persons who are members of or apply for membership of the Division, who are residing or employed in the Northern Territory shall, on and from 1 January 2012, be and remain members of the Queensland Northern Territory Divisional Branch.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW25]: This is a reference to Schedule 1, Item 14 which inserts a new para re members in Vic, Tas and SA being members of the amalgamated branch (for the purposes of the temporary amalgamation)

30 – MEMBERSHIP

(i) General Section

- (a) Applications for membership of the Union and/or Divisional Branch shall be on a form published by the Divisional Branch and shall be signed by the applicant. Divisional Branches may publish applications for membership on the internet.

No omission, irregularity or want of form shall invalidate an application for membership provided that the person applying intended the document to be so treated and the union treated the document as an application form for membership.

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- (b) A person applying for membership shall, on the membership application form, state which classification the applicant for membership considers to be his or her appropriate classification. All applications for membership shall be lodged with the Divisional Branch Secretary or such other person authorised by the Divisional Branch Council and such applications may be lodged via the internet or email. Applications for membership shall be dealt with by the Divisional Branch Management Committee or another committee authorised by Divisional Branch Council, who shall, if satisfied with the bona-fides and qualifications of the applicant, admit him or her to membership of the Divisional Branch and the Union.

The classification determined in accordance with this sub-rule:

- (i) shall be solely for the purpose of determining the eligibility of each member to nominate for election to any office within the Division or Divisional Branch where election to such office is dependent upon the members falling into one or other classification;
- (ii) shall be conclusive; and
- (iii) shall bind the Divisional Branch Returning Officer.

Note: This sub-rule is affected by the operation of Schedule 1.

- (c) On being admitted to membership of the Divisional Branch a member shall, ipso facto, be and be deemed to be a member of the Construction and General Division, the Divisional Branch, and the Union.
- (d) A period of thirteen weeks, together with any period from the date of admission that the member has not been working at the trade, shall be allowed for the purpose of any member objecting to the continuance of membership of new members. Any objection to the continuance of membership of a new member shall be lodged in writing with the Divisional Branch Secretary or authorised person entitled to receive such application, such objection shall be lodged within the above-named period.
- (e) A new member shall during the currency of the probationary period be entitled to full membership privileges and responsibility in accordance with Rules.
- (f) A new member shall pay on application for membership all moneys required to be paid by a new member - Entrance Fee, one half year's contribution.
- (g) Applicants for membership shall be qualified workers of good character, and shall, when admitted to membership, enjoy all advantages of membership so long as they comply with the registered rules of the Union.

Half yearly terms shall be deemed to begin on the first day of April and October, respectively.

- (h) On being admitted to membership of the Divisional Branch a member shall, ipso facto, be taken to have authorised the union and its officers and employees to seek and obtain any information from any industry scheme of which that member is also a member or participant, for the purpose of ensuring that the member has received or is receiving all of the benefits to which that member is entitled under such industry schemes.

Commented [LW26]: This is a reference to Schedule 1, Item 15 which adds a para that says that the SA Sub-Branch Management Committee can deal with membership applications for SA on behalf of the Vic DBMC (for the duration of the temporary amalgamation)

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For the purpose of this sub-rule a reference to "industry scheme/s" shall be taken to include any or all of the following;

- (i) C+Bus or any state based equivalent superannuation scheme.
 - (ii) Australian Construction Industry Redundancy Trust or any State equivalent redundancy scheme, or predecessor scheme.
 - (iii) Any long service scheme established pursuant to legislation of any State or Territory for the benefit of persons in construction and related industries.
 - (iv) Any other scheme the benefits to which the member of the Divisional Branch is entitled pursuant to his/her contract of employment, or any legislation, or any award or certified agreement to which the union is a party.
- (ii) APPRENTICES, IMPROVERS, TRAINEES AND LABOUR MARKET PROGRAMME WORKERS
- (a) An apprentice (indentured or trainee), improver, trainee or other labour market programme worker may be admitted to this section. That person shall, on the completion of their apprenticeship or where they cease to be an improver, trainee or labour market programme worker, be transferred to the General Section and be subject to the provisions of the General Section membership.
 - (b) A person engaged in a pre-apprenticeship course at a technical college shall on application be admitted to the apprentices section without being required to pay any contributions (subject to payment of an enrolment fee to be determined by the Divisional Branch Management Committee from time to time).
 - (c) The same provisions relating to the admission of members to the General Section shall apply to applicants to the Apprentices, Improvers, Trainees and Labour Market Programme Workers section.
- (iii) Victoria-Tasmania Divisional Branch
- (a) The record of members of the Victoria-Tasmania Divisional Branch shall classify each member into one or other of the following classifications:-
 - (i) carpenter;
 - (ii) labourer;
 - (iii) stonemason;
 - (iv) tilelayer;
 - (v) painter;
 - (vi) signwriter;
 - (vii) bricklayer
 - (viii) solid plasterer
 - (ix) roof-tiler
 - (x) fibrous plasterer/fibrous plaster industry worker
 - (xi) crane operations
 - (xii) rigger/dogman
 - (xiii) plant and machine operations
 - (xiv) boiler attendant/engine driver
 - (xv) production worker (metal)
 - (xvi) concrete pump operations
 - (xvii) forklift/hoist operations
 - (xviii) driller
 - (xix) other

which shall be known as the member's designated classification.

- (b) A person applying for membership shall on the membership application form, state which one of the classifications set out in paragraph (a) the applicant for membership considers to be his or her appropriate classification.
- (c) In dealing with applications for membership the Victoria-Tasmania Divisional Branch Management Committee shall determine each new member's designated classification.
- (d) The Victoria-Tasmania Divisional Branch Management Committee may at any time change a member's designated classification provided that the Victoria-Tasmania Divisional Branch Management Committee shall not change a member's designated classification unless -
 - (i) the Victoria-Tasmania Divisional Branch Management Committee has received from the member a request in writing for a change to the member's designated classification setting out the reasons for the request; or
 - (ii) the member has been given a reasonable opportunity by the Victoria-Tasmania Divisional Branch Management Committee to state in writing the reasons why he or she should retain his or her designated classification or have a different designated classification.

As soon as practicable after the Victoria-Tasmania Divisional Branch Management Committee changes a member's designated classification in accordance with this paragraph the Victoria-Tasmania Divisional Branch Management Committee shall cause the member to be notified in writing and alter the record of members of the Victoria-Tasmania Divisional Branch accordingly.

- (e) The Victoria-Tasmania Divisional Branch Management Committee shall determine the designated classification of an applicant for membership in accordance with paragraph (d) or a change to an existing member's designated classification in accordance with paragraph (e) by reference to:-
 - (i) the trade or other qualifications held by the applicant for membership or existing member;
 - (ii) the award classification of the applicant for membership or existing member, or his or her last award classification; and
 - (iii) the work performed by the applicant for membership or existing member, or the last work performed by him or her.
- (f) Where the Victoria-Tasmania Divisional Branch Management Committee considers that it does not have sufficient information available to determine the designated classification of an applicant for membership or to change an existing member's designated classification it shall request that the member provide such further information as the Victoria-Tasmania Divisional Branch Management Committee considers appropriate.
- (g) The designated classification of each member determined in accordance with this sub-rule:
 - (i) shall be solely for the purpose of determining the eligibility of each member to nominate for election to any office within the Victoria-Tasmania Divisional Branch where election to such office is dependent upon the member falling into one or other of the classifications set out in paragraph (a) hereof;
 - (ii) shall be conclusive; and
 - (iii) shall bind the Divisional Branch Returning Officer.

32 – CONTRIBUTIONS

- (h) For the purposes of determining length of membership of the Divisional Branch in rule 38(a) herein, previous financial membership of the VSBTU (PIWD) shall, where such member has obtained a clearance from the VSBTU in accordance with rule 9 of the National Rules of the CFMEU, count as financial membership of the Victorian Building Unions Divisional Branch.

Note: This sub-rule is affected by the operation of Schedule 1.

- (iv) Queensland Northern Territory Divisional Branch (Northern Territory Members)

The provisions of these rules relating to membership and applications for membership of the Queensland Northern Territory Divisional Branch shall apply with equal force and effect to persons residing and/or employed in the Northern Territory.

- (v) ~~Victorian FEDFA Divisional Branch~~

~~A period of prior membership of the former FEDFA Division Victorian Divisional Branch shall count as a period of membership of the Construction and General Division Victorian FEDFA Divisional Branch, for all purposes including the operation of divisional rule 38(a)(vii).~~

Commented [LW27]: This is a reference to Schedule 1, Item 16 which replaces the name of the branch with Vic-Tas-SA (for the duration of the temporary amalgamation)

Commented [LW28]: See Item 26B in summary table

31 – ENTRANCE FEE

All applicants to the General Section shall pay an entrance fee that shall be any sum as the Divisional Branch Council or Divisional Branch Management Committee may decide.

All applicants to the Apprentice and Improvers' Section shall be admitted without the payment of an entrance fee.

The Divisional Branch Management Committee of each Divisional Branch shall determine such other circumstances, if any, in which an applicant shall be exempt from the requirement to pay an entrance fee.

32 – CONTRIBUTIONS

- (a) A statement setting out all contributions, levies and fines due shall be forwarded to every member half-yearly not later than March 1, and September 1, of each year.

Such notice shall be deemed to have been received by the member unless the member personally advises the Divisional Branch Secretary by registered letter on or before the 1st day of April or the 1st day of October, as the case may be, in the current year that the member has not received such statement.

In no case shall the failure of the member to receive a notice entitle the member to be considered financial other than provided for in this Rule.

- (b) Subject to the provisions of sub-clause (c) to (h) of this Rule, contributions shall be due and payable in advance as from the 1st day in April and the 1st day in October respectively in any year as follows:

GENERAL SECTION: Divisional Branch membership contributions shall be no less than 1% of the Building and Construction General On-Site Award 2010 (or any other award replacing that award) base rate for a carpenter multiplied by 26 unless decided otherwise by the Divisional Executive on application by the Divisional Branch concerned.

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32 – CONTRIBUTIONS

The Divisional Branch Management Committee shall calculate the amount of Union contributions based on the abovementioned formula.

The Divisional Branch contributions so fixed shall be applied from the following half year period commencing 1st October and 1st April respectively.

APPRENTICES, IMPROVERS, TRAINEES AND LABOUR MARKET PROGRAMME WORKERS: Divisional Branch contributions for apprentices shall be determined by the Divisional Branch Council concerned.

The apprentice shall be charged half yearly dues at the rate applying at the commencement of that financial half year, except in respect of the financial half year during which the apprentice becomes a tradesperson.

An improver, trainee or labour market programme worker shall be charged half yearly dues at a rate that is less than the general section and is determined from time to time by the Divisional Branch Management Committee.

Arrangements for Deduction Schemes

- (c) Subject to sub-rule (cA), notwithstanding anything elsewhere in the rules the union may make arrangements with

an employer (including any Government Department) or

any Bank, Building Society, Credit Union or other financial institution

for the regular deduction, on the authority of a member, of amounts whether by way of contributions (rounded up, if necessary, to a multiple of five cents), levies or any other monies which may be payable by a member to the union pursuant to the Rules, from

the wages or monies payable to the member or

from any account maintained by the member as the case may be,

and then so long as an authority by the member for the deduction of contributions and other financial dues which is acceptable to the Divisional Branch remains in force, the member shall be deemed financial, notwithstanding that the payments are not made in advance as required by this Rule provided that, the member was financial immediately prior to arranging such deduction.

Provided however that in the alternative, a member may authorise such additional deductions as will repay all outstanding contributions over time and also, from the point at which any outstanding contributions are met in full, ordinary regular deductions thereafter in which case such member shall be regarded as fully financial at the point at which all previously outstanding contributions are met and a current authority to deduct remains in force.

Further provided that in the case of new members such members may either pay all joining fees and membership contributions necessary to become a member and provide an authority to deduct such contributions from the commencement of the first dues period after the date of joining, in which case the member shall be deemed to be financial, or alternatively, authorise the regular deduction of all such fees and contributions as will result in a nil balance owing to the union at the end of such dues period in which case such member shall be entitled to all the benefits of membership other than the right to vote which right shall only be conferred after a continuous period of 26 weeks of contributions are paid under such authority.

(cA)

32 – CONTRIBUTIONS

- (i) This rule applies to members attached to the QNTDB, [the WA Divisional Branch](#), [the NSW Divisional Branch](#) and the SA Divisional Branch and applies notwithstanding the provisions of sub-rule (c).
- (ii) Notwithstanding anything elsewhere in the rules, a member of the QNTDB, [WA Divisional Branch](#), [NSW Divisional Branch](#) or the SA Divisional Branch who:
- (a) has paid the entrance fee;
 - (b) commenced on, and makes payment in accordance with, a Scheme, and
 - (c) either:
 - (A) has made payment of all Membership Contributions immediately prior to commencing on a Scheme; or
 - (B) has authorised the deduction of an amount that will result in the payment of all Membership Contributions within six (6) months of commencing on a Scheme or with such longer period as the Divisional Branch Secretary permits,
- will be a financial member and will be entitled to all the benefits of membership including the right to vote.
- (iii) A member making payment of their Membership Contributions in accordance with:
- (a) a payroll deduction scheme will be unfinancial if in arrears for a period of three (3) months after the last payment under the payroll deduction scheme was received; or
 - (b) a direct debit scheme will be unfinancial if in arrears of two (2) Periodic Payments.
- (iv) For the purposes of this rule:
- (a) ‘Direct Debit Scheme’ means a scheme where a member provides written authority for contributions payable to the QNTDB, [WA, NSW](#) or the SA Divisional Branch to be deducted, on such regular basis as the respective Divisional Branch Secretary agrees, from the member’s financial institution, similar debit account or credit card;
 - (b) ‘Membership Contribution’ means entrance fees, subscriptions and levies in accordance with these Divisional Rules;
 - (c) ‘Payroll Deduction Scheme’ means a scheme where a member provides written authority to their employer for contributions payable to the QNTDB, [WA, NSW](#) or the SA Divisional Branch to be deducted, on such regular basis as the respective Divisional Branch Secretary agrees, from the member’s salary;
 - (d) ‘Periodic Payment’ means a payment required to be made by a member of the QNTDB, [WA, NSW](#) or the SA Divisional Branch at the frequency authorised in their written authority; and
 - (e) ‘Scheme’ means a Payroll Deduction Scheme or a Direct Debit Scheme.

Levies

- (d) All levies required to be paid by members in accordance with these rules shall be paid in terms decided by Divisional Branch Council or the Divisional Branch Management Committee.

Commented [LW29]: See item 7 in summary table

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32 – CONTRIBUTIONS

Fines

- (e) Any fines required to be paid by a member in accordance with these rules shall be paid in terms decided by Divisional Branch Council of the Divisional Branch Management Committee.
- (f) All moneys paid by a member shall be credited in the following order:
 - 1. In payment of any levies due; and
 - 2. In payment of any fines due, and
 - 3. In payment of any contributions due

Unfinancial Member

- (g) Subject to Sub-rule (cA), ~~and (i) and (j) herein~~, any member who has failed to pay all contributions, levies and fines imposed in accordance with the rules of the union shall be deemed to be unfinancial and shall not be eligible to receive any benefits, participate in any vote, nominate for official positions, propose or second any new applicant member for admission, or exercise any authority or any rights of membership as provided for in these rules.

Commented [LW30]: See Items 8-10 in Summary Table

From the date of payment of all such arrears or any cancellation, credit or waiver in accordance with these Rules, a member shall be deemed to be financial.

Credit to New Members

- (h) Applicants joining the Divisional Branch during the currency of any half year shall be credited in the next half year for such period as has elapsed before they joined. Such credit shall be calculated on a monthly basis.

Cancellation/Waiver of Contributions etc

- (i) Notwithstanding any other Rule to the contrary, a Divisional Branch Management Committee or such other official/s and/or employee/s within the Divisional Branch as the Divisional Branch Management Committee may authorise from time to time, may, in its discretion, cancel, waive, credit or otherwise diminish either in whole or in part, any contributions, fees, levies or other arrears, whether before or after the period to which the contribution, fee, levy or other arrear relates or before or after such contribution, fee, levy or other arrear falls due, or for or in relation to a period or amount arising before or after the certification of this sub-rule for such reason as the Divisional Branch Management Committee feels appropriate. Without limiting the generality of the foregoing, such grounds may include:
 - (a) absence from Australia;
 - (b) inability to carry on a member's vocation or calling through illness or injury;
 - (c) unemployment
 - (d) any other hardship whatsoever;
 - (e) periods on workers' compensations or because of any injury which, in the view of the Divisional Branch Management Committee ought properly have been compensable;
 - (f) The maximisation of participation of members in Union affairs and the maximisation of financial union membership

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Provided however that any decision to cancel, waive, credit or otherwise diminish the contributions, fees, levies or other arrears of any member by any officer/s and/or employee/s authorised by the Divisional Branch Management Committee to do so, shall be presented to the Divisional Branch Management Committee for final ratification at the next meeting of that body or as soon as practicable thereafter.

Further provided that the Divisional Branch Management Committee may, in its discretion, either before or after the said cancellation, waiver, credit or diminution require from any such member such documentation or other evidence which shows, to the satisfaction of the said Divisional Branch Management Committee, the basis of such cancellation, waiver, diminution or credit.

For the purposes of this Rule and any other Rule of the Union, any period covered by or any amount deducted from any amounts owing or diluted by any cancellation, waiver, credit or diminution shall count for all purposes as if it were a payment of the fees and, in the case of an amount rendering the member otherwise financial shall count, if the period so covered is the only period of unfinanciality, for all purposes as continuous financial membership unless the member is, otherwise than for the cancellation, waiver, credit or diminution, unfinancial.

Provided however persons seeking to rely on the preceding paragraph to establish financial membership for the purpose of eligibility to nominate for office under Rule 38(a) herein, shall only be permitted to do so where the amount waived or sought to be waived on each occasion does not exceed one six-monthly period of membership contributions.

Continuous membership for the purpose of this Rule and wherever encountered in these Rules means membership without any break in the continuity of membership from the last date of acceptance into the Division.

Provided that for the purposes of this Rule continuous membership shall be and include unbroken membership with any Division, Union, Branch or District which amalgamated with the Union or preceded the formation of this Division.

(j) A Divisional Branch Management Committee may, in its discretion and for any reason it considers appropriate, defer for a maximum period of three months the date by which payment of contributions shall be due and payable under sub-clause (b) of this Rule. Any member whose contributions have been deferred will remain a financial member as provided for in Rule 6 for the duration of the deferral, save that the member will not be eligible to nominate for or hold office within the Union for the duration of the deferral. A Divisional Branch Management Committee may only defer the payment of contributions of a member who has paid membership contributions in full in each six-monthly period in which such contributions fell due and payable for at least the previous three years.
Any period covered by a deferral shall count for all purposes as continuous financial membership.
The Divisional Branch Management Committee may defer the payment of contributions either before or after they fall due and payable in accordance with sub-clause (b) of this Rule. If a payment of contributions is deferred after it falls due and payable, the period of the deferral must commence on the date that the contributions fell due and payable and at which the member would, but for the deferral, have become unfinancial. The Divisional Branch Management Committee may not decide to defer the payment of contributions more than three months after the contributions fell due and payable.

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33 – COPY OF RULES

All applicants shall be entitled to on admission receive free a copy of Rules of the Union applicable to such member upon request to the Divisional Branch Secretary.

34 – AGED, INFIRM, UNEMPLOYED OR UNFINANCIAL MEMBERS

- (a) ~~(i)~~ A member with 10 years' continuous membership who is unable to follow their usual occupation, may on application to Divisional Branch Management Committee or other authorised Committee be granted retired membership at the discretion of the Divisional Branch Management Committee.

On payment of the amount of \$2.00 per year or such other higher amount as a Divisional Branch may determine, retired members shall be treated as fully financial and entitled to all the benefits of membership including the right to vote.

Persons who have previously been granted retired membership or honorary life membership shall, if they have paid an amount of \$2.00 per year or more since the granting of such membership, be and be treated as retired members in accordance with this sub-rule and fully financial in the union.

In the event that a retired member has paid more than the minimum amount the difference shall be credited to the members account.

- ~~(ii) A member, with a total of 40 years' membership in their former Union and this Union, providing that such member joined this Union within three months of arrival in Australia or came on transfer from another Union may apply for life membership.~~

Commented [LW32]: See items 5-6 in summary table

~~Such members shall be treated as fully financial and entitled to all the benefits of membership including the right to vote, without the requirement of paying any dues. Persons who have already applied for and been granted life membership shall be treated as coming within this sub rule.~~

- ~~(iii) In the case of the New South Wales Divisional Branch, Victoria Tasmania Divisional Branch and the ACT Divisional Branch the forty (40) years mentioned in sub rule (ii) shall be read as thirty (30) years.~~

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW33]: This is a reference to Schedule 1, Item 17 which changes name of amalgamated branch and adds a new sub-rule to align length requirements. It is redundant following the proposed rule change and will be deleted.

34A – LIFE MEMBERSHIP

Commented [LW34]: See items 5-6 in summary table

- (a) A member may apply for life membership, which will be granted at the discretion of the relevant Divisional Branch Management Committee.

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- ~~(a)(b) Such members shall be treated as fully financial and entitled to all the benefits of membership including the right to vote, without the requirement of paying any dues. Persons who have already applied for and been granted life membership shall be treated as coming within this sub-rule.~~

- (c) Life membership which has been validly conferred prior to the date of this rule change, including life or honorary membership conferred by a union that subsequently amalgamated into the CFMEU, shall be recognised.

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35 – FUNDS OF THE DIVISIONAL BRANCH

- (a) All moneys subscribed shall be held for the administration of the Divisional Branch in accordance with Rules and banked by its officers in such bank or banks as the Divisional Branch Council shall decide.
- (b) All expenditure from the funds shall be in accordance with the Rules of the Divisional Branch and no expenditure shall be permitted for any other purpose.
- (c) APPLICATION OF FUNDS - The funds of the Divisional Branch shall be used only for the carrying out of the objects of the Union and in necessary expenses of management.
- (d) INVESTMENT OF FUNDS - The surplus funds or other property of the Divisional Branch shall be invested from time to time in such manner as may be authorised by law and as may be determined by the Divisional Branch Council.
- (e) All expenditure for ordinary purposes, i.e., incurred in directly furthering the objects and for expenses of management, may be disbursed by direction of the Divisional Branch Management Committee and any other expenditure by direction of the Divisional Branch Council.
- (f) From the contributions of the members there may be established funds to be known as the Benefit Fund and Contingent Fund, which are to be used exclusively for the purpose set out in the rule covering these funds and not used for any other purpose.
- (g) The Divisional Branch Secretary may be authorised by the Divisional Branch Committee to incur any expenditure on behalf of the Branch Division provided that the Divisional Branch Management Committee may withdraw such authorisation at any time or for any period it sees fit. All expenditure incurred by this authorisation shall be placed before the Divisional Branch Management Committee for consideration and ratification.
- (h) BENEFIT FUND - The credit balance of a Fund shall be maintained at a level determined by the Divisional Branch Council and shall be reimbursed from the General Fund quarterly.
- (j) CONTINGENT FUND - The credit balance of a Fund shall be maintained at a level determined by the Divisional Branch Council and shall be reimbursed from the General Fund quarterly.
- (k) Notwithstanding sub-rules (e) and (g) hereof, in the NSW Divisional Branch all expenditure for ordinary purposes, i.e. incurred in directly furthering the objects of the union and for expenses of management of the Divisional Branch may be disbursed by decision of the Divisional Branch Secretary or the Divisional Branch President and such other official of the Divisional Branch as the Divisional Branch Management Committee may from time to time authorise. Provided however that all expenditure so incurred shall be placed before the Divisional Branch Management Committee for consideration and ratification, and further provided that the Divisional Branch Management Committee may withdraw such authorisation at any time or for any period it sees fit. Expenditure for other purposes authorised by the rules may be disbursed by decision of the Divisional Branch Management Committee.

36 – AUDIT OF ACCOUNTS

- (a) The accounts of the Divisional Branch shall be audited yearly by an approved auditor appointed by the Divisional Branch Council who shall produce and certify a financial statement and report setting out the financial position of the Divisional Branch every financial year to and including the last day of December of each financial year. Such auditor shall also produce and certify a yearly balance sheet. Provided however that the financial year for the Divisional Branches shall, on and from 1

37 – OFFICERS

April 2017, and for each year thereafter, commence on and from 1 April each year and end on 31 March of each following year.

The auditor shall have full and complete access to the books and documents of the Branch.

- (b) Copies of the financial statement and balance sheet shall be forwarded to all district secretaries for the information of and inspection by financial members.

Upon receipt by the Divisional Branch Secretary of a petition, signed by not less than 5% of the members of the Divisional Branch, requesting that a general meeting of members of the Divisional Branch be called for the purpose of considering the auditor’s report, the general purpose financial report and the operating report of the Divisional Branch, the Divisional Branch Secretary shall convene such meeting as soon as is practicable.

37 – OFFICERS

- (i) In NSW the officers of the Divisional Branch shall consist of the Divisional Branch President, Divisional Branch Secretary, two Divisional Branch Assistant Secretaries, and Divisional Branch Management Committee members, together with such Organisers as may be deemed necessary and as the Divisional Branch Council or Divisional Branch Management Committee from time to time determine.

- (ii) ~~Without affecting the term of office of persons holding office as Divisional Branch Officers in the QNTDB and the QBLDB immediately prior to the date of certification of this sub rule, i~~ n the QNTDB the officers of the Divisional Branch shall ~~, on and from 3 January 2014 and as a result of the merger of the QNTDB and the QBLDB, consist~~ of the Divisional Branch President, two (2) Divisional Branch Senior Vice-Presidents (which positions shall be honorary), two (2) Divisional Branch Vice-Presidents (which positions shall be honorary), the Divisional Branch Secretary, the Divisional Branch Assistant Secretaries (the total number of which shall be determined in accordance with Rule 40 of these Divisional rules) which shall include a Divisional Branch Assistant Secretary (Plasterers) and may include a Divisional Branch Assistant Secretary (Painters), and two Divisional Branch Executive Members.

Commented [LW35]: See Item 19 in Summary Table

- (iii) In the Australian Capital Territory, the officers of the Divisional Branch shall consist of the Divisional Branch President (which position shall be honorary), two Divisional Branch Vice Presidents (which positions shall be honorary), the Divisional Branch Secretary/Treasurer, the Divisional Branch Assistant Secretary, Divisional Branch Organisers, Divisional Branch Delegates to Divisional Conference and members of the Divisional Branch Management Committee.

- (iv) Without affecting the term of office of persons holding office as Divisional Branch Officers immediately prior to the date of certification of this sub-rule, the officers of the Western Australia Divisional Branch shall, on and from 2 January, 2001, or the declaration of the election in 2000, whichever is the later, consist of the Divisional Branch President, the Divisional Branch Senior Vice President, the Divisional Branch Vice President, the Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, three (3) Divisional Branch Trustees, the Divisional Branch Treasurer and Divisional Branch Management Committee members, together with such number of Organisers as the Divisional Branch Management Committee from time to time determines.

Provided however that on and from the date of certification of this amendment there shall be only one (1) Divisional Branch Assistant Secretary in the Western Australian Divisional Branch.

- (v) (a) [Deleted]

~~Note: This sub rule is affected by the operation of Schedule 1.~~

Commented [LW36]: See item 26C in summary table

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- (b) On and from 2 January 2013 or the declaration of the election in 2012 whichever is the later, the officers of the Victoria-Tasmania Divisional Branch shall be the Divisional Branch President, a Divisional Branch Vice-President (which position shall be honorary), the Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, a Divisional Branch Senior Vice-President ~~(FEDFA)~~, (which shall be a paid, full-time position), the members of the Divisional Branch Management Committee, the members of the Divisional Branch Sub-Branch Management Committee referred to in Rule 42B(ii) herein, Divisional Branch Delegates to Divisional Conference, and such number of Organisers as may be decided by the Divisional Branch Management Committee.

Note: This sub-rule is affected by the operation of Schedule 1.

- (vi) The officers of the South Australia Divisional Branch shall consist of the Divisional Branch President, (which position shall be honorary), the Divisional Branch Vice President, (which position shall be honorary), the Divisional Branch Secretary, two Divisional Branch Assistant Secretaries, the Divisional Branch Treasurer (which position shall be honorary), two (2) Divisional Branch Trustees, (which positions shall be honorary) and the members of the Divisional Branch Management Committee.

Provided however that on and from the date of certification of this amendment there shall be one only Divisional Branch Assistant Secretary in the South Australian Divisional Branch.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW37]: See item 22 of summary table

Commented [LW38]: This is a reference to Schedule 1, Item 18 which deletes and replaces (b) to read:

On and from 2 January 2025 or the declaration of the divisional branch election in 2024, whichever is later, the officers of the Victoria-Tasmania-South Australia Divisional Branch shall be the Divisional Branch President, a Divisional Branch Vice-President (which position shall be honorary), the Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, a Divisional Branch Senior Vice-President (which shall be a paid, full-time position), the members of the Divisional Branch Management Committee, the members of the Divisional Branch Tasmania Sub-Branch Management Committee referred to in Rule 42B herein the members of the Divisional Branch South Australia Sub-Branch Management Committee referred to in Rule 42C herein, Divisional Branch Delegates to Divisional Conference, and such number of Organisers as may be decided by the Divisional Branch Management Committee.

Commented [LW39]: This is a reference to Schedule 1, Item 19 which will delete (vi)

37A – EXECUTION OF DOCUMENTS

Industrial agreements affecting the employment of members of a single Divisional Branch, or persons within the geographic area and occupational categories within the State or Territory for which a single Divisional Branch is responsible, and any other instruments concerning the affairs of a single Divisional Branch, shall be executed by the Divisional Branch Secretary, or such other Divisional Branch Officer as authorised by the Divisional Branch Executive.

38 – DIVISIONAL BRANCH ELECTIONS

- (a) (i) Any member of the Divisional Branch who:
 - (A) is a financial member of the relevant Divisional Branch as provided for in Rule 6, at the time nominations are called,
 - (B) has had continuous membership of the Divisional Branch during the period immediately preceding the calling of nominations for the length of time specified in the scale in sub-rule (a)(vi) herein for the relevant offices and has not been unfinancial at any time during that period (irrespective of whether any outstanding contributions are subsequently repaid to render the member financial); and
 - (C) was,
 - (i) for not less than 9 months during the period of twelve months immediately preceding the calling of nominations employed as an employee in a trade or calling or branch thereof in or in connection with which the union is registered in the geographic area applicable to the relevant Divisional

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Branch, or engaged as an officer (as defined by Rule 37 herein) in the relevant Division or Divisional Branch (or in any state registered counterpart organisation thereto) or as an employee thereof after having been elected or appointed thereto; or

- (ii) for not more than 3 months during the period of twelve months immediately preceding the calling of nominations, unemployed on account of illness, incapacity or inability to obtain employment

may nominate for such positions according to that scale.

- (iA) In relation to the South Australian Divisional Branch only, subrules (a)(i)(B) and (C) and the scale in sub-rule (a)(vi) will not apply to the filling of any casual vacancy that exists at the time of this rule change, or to any casual vacancy that may arise prior to nominations being called for the Divisional Branch election to be held in 2024.

For the avoidance of doubt, a casual vacancy occurs in any office under these rules as a result of death, resignation, retirement, dismissal or for any other reason, and will be filled in accordance with r38(cc).

- (ii) Provided further that no member shall be entitled to nominate for more than one full-time office.
- (iii) Where a member nominates for more than one full-time position the Returning Officer shall seek from the member an election as to which position the member wishes to contest.
- (iv) Where no election is made by the member the Returning Officer shall treat as valid only the nomination for the more senior position.

Seniority shall be determined in the following order:-
Secretary, Assistant Secretary, President, Organiser.

- (v) Except in the Divisional Branches in the Australian Capital Territory, Queensland, South Australia and Victoria, a member who nominates for Organiser shall not be entitled to nominate for Divisional Branch Council or Divisional Branch Management Committee.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW40]: This is a reference to Schedule 1, Item 20 which updates the Vic and SA references to the amalgamated branch

- (vi) No member shall nominate for both Trade Management Committee member in accordance with Rule 42 - Divisional Branch Management Committee, and Trade or Zone Councillor in accordance with Rule 40 - Supreme Governing Body.

Where a member nominates for both, the Returning Officer shall seek from the member an election as to which position the member wishes to contest.

Where no election is made by the member the Returning Officer shall treat as valid only the nomination for the Divisional Branch Council, being the supreme governing body of the Divisional Branch.

The scale of continuous financial membership of the Branch necessary for members to be qualified to nominate for the following positions, is as follows:

- Divisional Branch Secretary)
- Divisional Branch Secretary/Treasurer)
- Divisional Branch Assistant Secretary)

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38 – DIVISIONAL BRANCH ELECTIONS

Divisional Branch President) 3 years'
Divisional Branch Senior Vice-President and Vice President) continuous financial membership
Divisional Branch Delegate to Divisional Conference)
Divisional Branch Management Committee Member) 1 year's
District Secretary/Organiser) continuous financial membership
Organiser)
Sub-Branch Secretary, President, Or Management Committee Member)
Divisional Branch Trustee (South Australia and Queensland Builders Labourers' Divisional Branches))
Divisional Branch Councillor, representatives) financial membership

- (b) The term of office for the above positions shall be four years and such term shall commence from the 2 January, following the election. In the event that a delay in the conduct of an election means that the results for an office are not declared until after 2 January, the successful candidate(s) shall take up office on the Monday immediately following the declaration of their election. In circumstances where the results for an office are declared after 2 January, the term of the candidate will be reduced by the length of the delay to ensure that there is no disruption to the next scheduled Divisional Branch election under these rules.
- (b)(i) In the event that there is a delay of the kind described in rule 38(b), the incumbent will hold over office beyond 2 January and until their successor takes up office on the Monday immediately following the declaration of their election. Any action taken by the incumbent while holding over office shall not be invalidated merely because they have been held over in the position in accordance with these rules.
- (c) Nominations for the above positions shall be called by the Returning Officer by notification in the union journal and the Divisional and relevant Divisional Branch website. Where a Divisional Branch printed journal is not scheduled for publication within two weeks of the opening of nominations then the website notification shall suffice. Alternatively, notice may be given to members by publication in one daily newspaper circulating in the Divisional Branch area on or before the last day of August in the year of the election.

Provided that such notifications shall clearly indicate that the Divisional Executive members, the full-time Divisional Officers, the National Conference delegates and the National Officers are elected by and from Divisional Branch delegates to Divisional Conference and not otherwise.
- (d) Nominations must be lodged with the Returning Officer before the close of nominations at the address and by the methods specified on the notice of election. Nomination forms shall be signed by the candidate and by at least ten (in the case of those offices in (a)(vi) above for which 3 years continuous financial membership is required) and five (in all other cases) financial members of the Divisional Branch.
- (e) Nominations shall be closed at 4 pm on the second last Friday of September, 1996 and each four years thereafter following that date. Nominations must be received by the Returning Officer by that time on the date to be eligible.

A member having nominated for any office in accordance with this Rule may withdraw the nomination by notifying the Returning Officer in writing of an intention to do so at any time up to seven (7) days after the closing of nominations. The Returning Officer on receipt of a notification

from a member wishing to withdraw a nomination shall immediately take the appropriate steps to withdraw the member's name from the ballot papers prior to their distribution.

- (f) Candidates may include with their nomination form, a statement not exceeding 200 words and in respect of Divisional Branch Councillor 50 words, containing only the candidate's personal history and only the candidate's policy statement.
- (g) The Returning Officer shall examine all nominations to ensure that they are in order and if any nominations are found to be defective, the Returning Officer, before rejecting the nominations, shall notify the person concerned of the defect and where practicable to do so give them the opportunity of remedying the defect within a period of not less than seven days after being so notified.
- (h) If at the closing date for nominations only sufficient nominations have been received by the Returning Officer to fill any vacancy or vacancies the Returning Officer shall thereupon declare person or persons so nominating elected and supply forthwith a report of the declaration of the ballot to the Divisional Branch Management Committee and candidates by submitting a Returning Officers' report to the Divisional Branch Secretary.
- (j) If all nominations are received and there are more nominations than there are vacancies the Returning Officer shall conduct a draw for positions on the ballot paper and shall notify candidates of the time and place of the draw in sufficient time for a candidate or his nominee to attend the draw; such attendance shall be at the candidate's own costs and expense.
- (k) The Returning Officer shall forthwith have printed ballot papers in sufficient quantities to enable him to supply a ballot paper for each member eligible to vote in the election and secure a certificate from the printer as to the number printed.
- (l) Such ballot papers shall have printed thereon only the title of the office to be filled, method of voting and the name of the candidates for such office and a space for the required vote to be registered, provided however that where more than one candidate is required to be elected the number to be elected shall, be printed on the ballot paper. The position of the names of each candidate on the ballot paper shall be in order of the draw of positions for that ballot.
- (m) Where a ballot is required, the Divisional Branch Secretary shall provide, within one day of the closing of nominations, a certified list of financial members entitled to vote to the Returning Officer.
- (n) The Returning Officer shall, on a date which will enable the ballot paper to be posted not later than fourteen clear days before the closing date of the ballot, send by registered post to each member eligible to vote in the election at their address appearing on the list of members eligible to vote supplied to the Returning Officer by the Divisional Branch Secretary the following documents/materials only: -
 - (i) a ballot paper initialled by the Returning Officer in respect of each office to be filled at the election for which the member is eligible to vote.
 - (ii) a declaration envelope in such form as is prescribed by Regulation 5 of the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003.
 - (iii) a prepaid envelope in such form as is prescribed by Regulation 6 of the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003.
 - (iv) such printed instructions necessary for the completion of each of the ballot papers enclosed and any other instructions that the Returning Officer may consider necessary.
 - (v) the candidates statement provided for in accordance with sub-rule (f) of this rule.

- (vi) provided that the Returning Officer shall post to each member eligible to vote by pre-paid post all ballot papers. The ballot papers shall be posted to ensure eligible members receive them not less than 14 days before the closing of the ballot.
- (o) All financial members as defined in this rule shall be entitled to vote for all positions. Provided that in respect of voting for councillors members shall only be entitled to vote to elect the Councillor or Councillors within their Trade District or if they are not a member of a trade district, for the councillors within the zone district that they are attached to.

The zone that a member is attached to for the purpose of this rule shall be the zone that the member resides in according to the Divisional Branch records which shall be based upon the last address supplied to the Divisional Branch by the member up to and including the last working day of September in the year of the election.
- (p) For the purpose of the election, the books of the Divisional Branches shall be deemed to have closed eight (8) days before the date on which nominations open (the electoral roll closure date). Only members who are shown in the records at the office of the Divisional Branch as having paid all contributions, levies and fines as at the electoral roll closure date shall be entitled to vote.
- (q) The opening date of the ballot shall be at the 12th day of November and the closing date shall be noon on the 26th day of November in each year in which the ballot is held. All ballot papers shall be returned to the Returning Officer, c/- the post office box named on the reply envelope. The post office box to which the ballot papers are returned shall be hired by the Returning Officer prior to the dispatch of the ballot papers or if a box has been previously used by the union, they shall cause the lock to be changed.
- (r) The Returning Officer shall collect the returned ballot papers and keep them securely under their custody until the commencement of the count.
- (s) The Returning Officer shall advise scrutineer/s of a secure space and location where the count shall occur. If the AEC is conducting the election, the counting of the ballot shall take place on AEC premises. If it is necessary to interrupt the count for any purpose the papers shall be sealed in the ballot box to which any seals may be fixed by a scrutineer.
- (t) Any candidate at their own expense, may appoint a financial member of the union to act as their scrutineer by notification in writing to the Returning Officer. Any scrutineers so appointed may be present at any stage of the counting of the ballot provided that the Returning Officer is also present.
- (u)
 - (i) The Returning Officer shall proceed to count the ballot on the preferential system provided for in Rule 3, Definitions, and the candidate or candidates receiving the necessary votes shall be declared elected. The counting of the ballot shall be completed not later than the first day of December following the closing of the ballot.
 - (ii) In any election for trade and/or zone councillors of the Divisional Branch Council the method of counting shall be that the candidate receiving the highest number of votes amongst candidates from the same trade in respect to trade councillors and amongst candidates who are from the relevant classifications relating to the respective representatives of each zone in respect to zone councillors, shall be declared elected.
 - (iii) In any election for the Divisional Branch Council where there is no candidate to fill the trade position of Bridge & Wharf Carpenters or Tilelayers or Slater & Tilers, Plate, Sheet and Ornamental Glass Worker or Stonemason, Marble Mason, Terrazzo Workers or where there are insufficient candidates to fill all the positions in any zone, any such position shall be filled by an election held in accordance with the provision for casual vacancies contained in Rule 38 sub-rule (cc), of which election shall be held not earlier than 6 weeks and not later than 6 months following the declaration of the poll for the election of other Divisional Branch Councillors.

(iv) In any election for the Divisional Branch Management Committee where there is no candidate or insufficient candidates to fill the positions, any such position shall be filled by an election held in accordance with provisions for casual vacancies contained in Rule 38 sub-rule (cc), of which elections shall be held not earlier than 6 weeks and not later than 6 months following the declaration of the poll for the election of other Divisional Branch Management Committee Members.

(w) In the case of equality of votes for any 2 or more candidates the Returning Officer shall determine which of the candidates is elected by their casting vote by casting lots.

(y) The Returning Officer shall declare the successful candidates elected and notify the Divisional Branch Management Committee of the result of the ballot and the Divisional Branch Management Committee shall issue instructions for the publication of same in their minutes.

The officer shall also notify each successful candidate by post.

The Returning Officer's report to the Divisional Executive shall contain all relevant information including the number of ballot papers printed, the number posted, the number returned, the number unused, the number of votes received by each candidate, the names of those nominated for each office and their proposers.

(z) The successful candidates shall take up their respective duties not later than the 2nd day of January following the conclusion of the ballot, or otherwise in accordance with rule 38(b), and shall remain elected until their successors take up office.

(aa) Any accidental or unavoidable omission or error in the carrying out or observance of this rule shall not invalidate an election if such omission or error appears not to have affected the result of an election.

(bb) In any election the Returning Officer and any Scrutineer shall do all things necessary to preserve the secrecy of the ballot and shall conduct themselves in a sober, proper and impartial manner. Scrutineers shall, as far as practicable, be present at all stages of the ballot.

They shall obey any directions given to them by the Returning Officer. If any Scrutineers or Scrutineer are not present at any stage or stages of the ballot the Returning Officer may proceed nonetheless.

(cc) Where a casual vacancy occurs in any office under these rules as a result of death, resignation, retirement, dismissal or for any other reason, such vacancy may be filled by appointment by the Divisional Branch Management Committee provided that the person so appointed shall hold office for as much of the unexpired part of the term of the office as does not exceed -

(1) 12 months or

(2) three quarters of the term of the office, whichever is the greater.

Where the unexpired part of the term of office exceeds that specified in these rules, the Returning Officer shall conduct an election in accordance with the rules, with any necessary modifications to fill the vacant position, the person elected shall hold office for the remaining term of office.

(dd) In the Victoria-Tasmania Divisional Branch only, where a casual or extraordinary vacancy occurs in a Zone Delegate's position which has the effect of reducing the number of tradesperson or labourer delegates below the minimum number of tradesperson or labourer delegates for that zone, such vacancy shall be filled by a member with the same designated classification in accordance with sub-rule 30 (iii) as the Zone Delegate who previously held the position.

40 – SUPREME GOVERNING BODY - DIVISIONAL BRANCH COUNCIL

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW41]: This is a reference to Schedule 1, Item 21 which adds SA to the ref to the Vic-Tas Branch

39 – PLACE OF MEETING OF THE DIVISIONAL BRANCH

The place of meeting and office of the Divisional Branch shall be such place determined by the Divisional Branch Council.

40 – SUPREME GOVERNING BODY - DIVISIONAL BRANCH COUNCIL

(1) Subject to these Rules, the highest governing body of each Divisional Branch, shall be the Divisional Branch Council convened by the Divisional Branch Management Committee no less frequently than every two years.

Provided however that in the Queensland Northern Territory Divisional Branch the Divisional Branch Council shall meet not less than three times per year.

(2) (i) In New South Wales,
(a) The Divisional Branch Council shall, on and from 2 January, 2013, or the declaration of the election in 2012, whichever is the later, consist of the members of the Divisional Branch Management Committee together with zone councillors as provided by sub-rule (b) herein.

- (b) The Divisional Branch Councillors in New South Wales shall include the following Zone Councillors;
Cumberland Zone: 22 councillors who reside in the County of Cumberland elected by all members of the Divisional Branch.
Northumberland Zone: 3 councillors who reside in the County of Northumberland elected by all members of the Divisional Branch.
Camden Zone: 3 councillors who reside in the County of Camden elected by all members of the Divisional Branch.
Country Zone: 3 councillors who reside in NSW, (other than in the Counties of Northumberland, Cumberland or Camden), elected by all members of the Divisional Branch

The ballot paper for the election of New South Wales Divisional Branch Zone Councillors shall specify the four zones referred to above and the number of candidates to be elected from each zone, and the name of each candidate shall be placed under the name of the zone in which each candidate is standing for election.

The counties referred to in this sub-rule are as defined in accordance with the NSW lands administrative divisions.

(ii) (A) Without affecting the term of office of the Divisional Branch Council members of the QNTDB elected to office at the 2016 Divisional Branch elections, on and from the date of certification of this sub-rule, and thereafter, the Divisional Branch Council of the Queensland Northern Territory Divisional Branch shall consist of the following:

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(i) the Divisional Branch President;

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- (ii) two (2) Divisional Branch Senior Vice-Presidents;
- (iii) two (2) Divisional Branch Vice-Presidents;
- (iv) the Divisional Branch Secretary;
- (v) the Divisional Branch Assistant Secretaries;
- (vi) two (2) Divisional Branch Executive Members;
- (vii) on and from the Divisional Branch elections scheduled for 2024, one (1) member on the Divisional Branch Council who shall be a woman;
- (viii) 12 members on the Divisional Branch Council who shall be elected by and from the three sub-groups as follows:
 - (a) eight (8) Divisional Branch Council members who shall be elected by, and from, the members who reside in South East Queensland;
 - (b) three (3) Divisional Branch Council Members who shall be elected by, and from, the members who reside in Regional Queensland, provided that at least 1 of these Divisional Branch Council members will be elected from the members who reside in North Queensland,
 - (c) one (1) Divisional Branch Council Member who shall be elected by, and from, the members who reside in the Northern Territory, subject to the:
 - 1. number of Divisional Branch Council member/s elected:
 - a. under paragraph (viii)(a) being reduced by one (1) if the Divisional Branch President resides in South East Queensland;
 - b. under paragraph (viii)(b) being reduced by one (1) if the Divisional Branch President resides in Regional Queensland;
 - c. under paragraph (viii)(c) being reduced by one (1) if the Divisional Branch President resides in the Northern Territory;
 - 2. number of Divisional Branch Council member/s elected:
 - a. under paragraph (viii)(a) being reduced by one (1) or more if one (1) or more of the Divisional Branch Senior Vice Presidents resides in South East Queensland;
 - b. under paragraph (viii)(b) being reduced by one (1) or more if one (1) or more of the Divisional Branch Senior Vice Presidents resides in Regional Queensland; and/or
 - c. under paragraph (viii)(c) being reduced by one (1) if a Divisional Branch Senior Vice President resides in the Northern Territory;
 - 3. number of Divisional Branch Council member/s elected:
 - a. under paragraph (viii)(a) being reduced by one (1) or more if one (1) or more of the Divisional Branch

- Executive Members resides in South East Queensland;
- b. under paragraph (viii)(b) being reduced by one (1) or more if one (1) or more of the Divisional Branch Executive Members resides in Regional Queensland; and/or
 - c. under paragraph (viii)(c) being reduced by one (1) or more if a Divisional Branch Executive Member resides in the Northern Territory;
- (B) The Divisional Branch Secretary, the Divisional Branch Assistant Secretaries, the Divisional Branch President, ~~and~~ the Divisional Branch Senior Vice-Presidents [and the Divisional Branch Council member elected under paragraph \(vii\) above](#) shall, subject to this sub-rule, be elected by and from Members of the QNTDB, who are eligible to nominate and vote in accordance with these Rules.
- (C) The Divisional Branch Council may, not less than three (3) months prior to the opening of nominations as prescribed in Rule 38 of these Rules, determine whether the office of Divisional Branch President is to be held on an honorary or full-time basis following the quadrennial election, ~~provided that for the purposes of the quadrennial election to be held in 2020, the office of Divisional Branch President is to be honorary.~~
- (D) The Divisional Branch Senior Vice Presidents and the Divisional Branch Executive Members shall, subject to this sub-rule, be elected by and from members of the QNTDB, who are eligible to nominate and vote in accordance with these rules.
- (E) The Divisional Branch Assistant Secretary (Painters) (if any) shall, subject to a candidate for the office being entitled to nominate under these Divisional rules, be elected by, and from, the members of the QNTDB, who are eligible for membership under National Rule 2(A)(b) and entitled to vote.
- (F) The Divisional Branch Assistant Secretary (Plasterers) shall, subject to a candidate for the office being entitled to nominate under these Divisional rules, be elected by, and from, the members of the QNTDB, who are eligible for membership under National Rule 2(A)(a)(ii) and entitled to vote.
- (G) The Divisional Branch Assistant Secretaries (General) shall, subject to a candidate for the office being entitled to nominate under these Divisional rules, be elected by, and from, all members of the QNTDB, who are entitled to vote.
- (H) The Divisional Branch Council shall, not less than three (3) months prior to the opening of nominations as prescribed in Rule 38 of these Divisional Branch Rules, determine the number of Divisional Branch Assistant Secretaries to be elected.
- (I) The Divisional Branch Council shall, not less than three (3) months prior to the opening of nominations as prescribed in Rule 38 of these Rules, determine which (if any) of the Divisional Branch Assistant Secretaries are to be honorary.
- (J) The Divisional Branch Council will, at its first meeting held following a quadrennial election, elect from its members two (2) Divisional Branch Vice-Presidents and:
- (i) the procedure to be followed shall be, the necessary changes being made, the procedure for the election of Divisional Executive in accordance with Construction and General Divisional Rule 9; and

- (ii) Divisional Branch Vice-Presidents will not, apart from holding the office of Divisional Branch Council Member, hold any other office in the QNTDB.
- (K) Despite sub-rule (I):
 - (i) the Divisional Branch Council may determine that a full time office of Divisional Branch Assistant Secretary will, with the consent of the incumbent in that office, revert to an honorary office; and
 - (ii) where a casual vacancy arises in an office of Divisional Branch Assistant Secretary, the Divisional Branch Executive may, prior to filling the vacancy pursuant to these Rules, resolve whether the office will be abolished or whether it is to be filled on an honorary or full-time basis.
- (L) Despite sub-rule (C):
 - (i) the Divisional Branch Council may determine that a full time office of Divisional Branch President will, with the consent of the incumbent in that office, revert to an honorary office; and
 - (ii) where a casual vacancy arises in an office of Divisional Branch President, the Divisional Branch Executive may, prior to filling the vacancy pursuant to these Rules, resolve whether the office is to be filled on an honorary or full-time basis.
- (M) For the purposes of this rule:
 - (i) “North Queensland” means the Local Authority areas of:
 - (a) Shire of Carpentaria;
 - (b) Tablelands Region;
 - (c) City of Townsville;
 - (d) Shire of Hinchinbrook;
 - (e) Cassowary Coast Region;
 - (f) Shire of Yarrabah;
 - (g) Cairns Region;
 - (h) Shire of Wujal Wujal;
 - (i) Shire of Hope Vale;
 - (j) Shire of Cook;
 - (k) Shire of Lockhart River;
 - (l) Shire of Kowanyama;
 - (m) Shire of Pompuaraaw;
 - (n) Shire of Aurukun;

- (o) Napranum Shire;
 - (p) Shire of Mapoon;
 - (q) Northern Peninsula Area Region;
 - (r) Palm Island Regional Council;
 - (s) Torres Strait & Torres Strait Regional Council;
 - (t) Shire of Mareeba; and
 - (u) Shire of Douglas.
- (ii) “Regional Queensland” means all of the local authorities of Queensland other than those that comprise South East Queensland.
- (iii) “South East Queensland” means the Local Authority areas of:
- (a) Brisbane;
 - (b) Gold Coast;
 - (c) Ipswich;
 - (d) Lockyer Valley;
 - (e) Logan;
 - (f) Moreton Bay;
 - (g) Noosa;
 - (h) Redland;
 - (i) Scenic Rim;
 - (j) Somerset; and
 - (k) Sunshine Coast.
- (iii) ~~For the Divisional Branch elections scheduled for 2024 and onwards, in the Australian Capital Territory the Divisional Branch Council shall consist of the 17 members of the Divisional Branch Management Committee and nine (9) councillors elected from the membership of the Branch. Of the 9 councillors elected from the membership, 5 shall be tradespersons and 4 shall be non-tradespersons (including 1 councillor who is eligible for membership of the Union pursuant to National Rule 2(E)).~~ In the Australian Capital Territory the Divisional Branch Council shall consist of the 17 members of the Divisional Branch Management Committee and nine (9) councillors elected from the membership of the Branch.
- (iv) In Western Australia the Divisional Branch Council shall consist of the Divisional Branch Management Committee together with a further 20 delegates elected from the whole of Western Australia. In determining the composition of these delegates, regard shall be had to the principle of proportional representation.
- (v) (a) ~~For the Divisional Branch elections scheduled for 2024 and onwards, the members of the Divisional Branch Council of the Victoria-Tasmania Divisional Branch shall consist of the members of the Divisional Branch Management Committee, four of~~ For the Divisional Branch elections scheduled for 2024 and onwards, the members of the Divisional Branch Council of the Victoria-Tasmania Divisional Branch shall consist of the members of the Divisional Branch Management Committee, four of

Commented [LW43]: See item 3 in summary table

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~~the~~ members of the Divisional Branch Sub-Branch Management Committee referred to in Rule 42B(ii) herein ~~(to be determined by the Sub-Branch Management Committee at its first meeting after the declaration of each election) and one Zone Delegate for each of the zones identified in (b) below. s-elected in accordance with the following:~~

Commented [LW44]: See item 2 in summary table

~~The Zone Delegates to Divisional Branch Council referred to in sub rule (b) hereof shall be determined in accordance with the following formula:~~

~~Size of Zone ————— Number of Delegates
Up to 500 financial members ————— 4 delegates

Each additional 1000 financial members ————— 3 delegates~~

~~The number of financial members of a Zone for the purpose of determining the number of Zone Delegates to Divisional Branch Council in accordance with this paragraph shall be the number of financial members attached to the zone as at 5.00 p.m. on 30 July preceding the calling for nominations for elections of Zone Delegates to Divisional Branch Council.~~

~~Wherever any election of the Zone Delegates to Divisional Branch Council becomes necessary only the members belonging to that zone where an election is required to take place shall be eligible to nominate and to receive a ballot paper.~~

~~Subject to the proviso in the following paragraph, the Divisional Branch Council shall consist of Zone Councillors in accordance with the formula set out in this paragraph and, in the case of the Metropolitan Melbourne Zone, there shall be representation of carpenters, builders labourers, crane operations, rigger/dogman, plant and machine operators, boiler attendant/engine driver, production worker (metal), concrete pump operations, forklift operations, hoist operations, drilling/piling, painters/signwriters, bricklayers, roof tilers, stone masons, wall and floor tilers, fibrous plasterer/fibrous plaster industry workers and solid plasterers in accordance with the proportions set out in Rule 42(a)(v) with respect to the Victoria-Tasmania Branch Management Committee, and for all other zones, representation shall be by and from all members of the respective zones.~~

Note: ~~This sub-rule is affected by the operation of Schedule 1.~~

Commented [LW45]: This is a reference to Schedule 1, Item 22 which amends the preamble at rr(2)(v)(a) to read:

(b) The zones shall be as follows:

<u>Zone</u>	<u>Member's Residential Postcode</u>
Metropolitan Melbourne	3000 - 3210 Inclusive
	3335 - 3341 "
	3425 - 3443 "
	3750 - 3811 "
	3910 - 3920 "
	3926 - 3944 "
	3972 - 3978 "
	3980 - 3983 "
Geelong	8002 - 8009 Inclusive
	3211 - 3289 Inclusive
	3292 - 3316 "
	3320 - 3334 "

The members of the Divisional Branch Council of the Victoria-Tasmania-South Australia Divisional Branch shall consist of the members of the Divisional Branch Management Committee, the members of the Tasmania Sub-Branch Management Committee referred to in Rule 42B and the members of the South Australia Sub-Branch Management Committee referred to in Rule 42C and Zone Delegates elected in accordance with the following: ...

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40 – SUPREME GOVERNING BODY - DIVISIONAL BRANCH COUNCIL

Central Victoria	3290 - 3291 Inclusive
	3317 - 3319 "
	3342 - 3424 "
	3444 - 3463 "
	3464 - 3599 "
Northern Victoria	3338
	3600 - 3749 Inclusive
LaTrobe	3812 - 3909 Inclusive
	3921 - 3925 "
	3945 - 3971 "
	3979
	3984 - 3999 Inclusive

- (vi) In South Australia the Divisional Branch Council shall consist of the Divisional Branch Committee of Management together with an equal number of delegates elected from the whole of South Australia. In determining the composition of these delegates, regard shall be had to the principle of proportional representation.

Note: This sub-rule is affected by the operation of Schedule [1](#).

Commented [LW46]: This is a reference to Schedule 1 Item 23 which deletes (vi) for the duration of the temporary amalgamation

- (3) Divisional Branch Council shall commence not later than the fourth Monday in September and continue on daily until the business before Divisional Branch Council is finished.
- (4) Divisional Branch Council shall be the highest deliberative body of the Divisional Branch and shall have the power, subject to these Rules, to:
- (a) Take such steps as it shall consider necessary to carry out all or any of the objects of the Union and to raise or spend such funds as are necessary to carry out the objects of the Branch and to raise or spend such funds as are necessary to carry out the objects.
 - (b) Direct the policy of the Divisional Branch.
 - (c) Divide the Divisional Branch into zones or districts in accordance with the Rule for the purpose of better organisation.
 - (d) Subject to rule 16, amend or add to the Rules.
 - (e) Hear and determine all appeals that are submitted in accordance with the Rules.
 - (f) Fix salaries of all full-time Divisional Branch offices and allowances for delegates or persons appointed by the Divisional Branch to do any work on behalf of the Divisional Branch.
 - (g) Returning Officer:
 - (i) At its first meeting after the election or appointment of the Divisional Branch Council shall appoint a Returning Officer and a Deputy Returning Officer, who shall act in the absence of the Returning Officer, for the conduct of any elections or appointments as may be necessary throughout the ensuing four year period provided that a duly appointed Returning Officer shall hold office until a successor thereto is duly appointed. The Returning Officer shall have absolute control of any election or appointment.
 - (ii) The Returning Officer so appointed:

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- (a) May or may not be a member of the Union; and
 - (b) Shall not be the holder of any office in, or an employee of, the organization or a branch, section, or division of the organization.
 - (h) Appoint delegates to organisations or bodies to which the Divisional Branch is affiliated.
 - (j) Receive and adopt or otherwise deal with the Annual Report and Balance Sheet of the Divisional Branch.
 - (k) Impose levies not exceeding \$20 provided that in no circumstances shall any levy or levies amounting to more than \$20 in any half year be imposed on any member or members.
 - (l) Subject to Rule 15 appoint a Public Accountant to audit the accounts of the Divisional Branch.
 - (m) Institute and/or defend legal proceedings in matters affecting the affairs of the Divisional Branch.
 - (n) Issue instructions regarding the registration of members desiring employment.
 - (o) Direct the Divisional Branch Management Committee to carry out any of the provisions of the rules or the performance of any duties that may be considered necessary.
 - (p) Frame by-laws for the purpose of assisting the work of administering the affairs of the Divisional Branch, provided such by-laws have been approved by the Industrial Registrar and are not in conflict with the General Rules.
 - (q) Issue instructions for the holding of meetings of members at any time to discuss important matters.
 - (r) Decide the number of Organisers under provisions of the Rules.
 - (s) Appoint Temporary Organisers under provisions of the Rules.
 - (t) Overrule any decision of the Divisional Branch Management Committee.
- (5) Appoint two (2) scrutineers and the quota for the Divisional Branch of delegates to Trades and Labor Council or Trades Hall Council in each State and/or Territory.
- (a) Any member of the Divisional Branch who is financial shall be eligible to make application to be appointed as a scrutineer or as a delegate under this sub-rule.
 - (b) Applications shall be in writing signed by the applicant and endorsed by two financial members.
 - (c) Applications shall be called one month before such appointments, notice of which shall appear in the journal of the Divisional Branch or at least one daily newspaper circulating in the Divisional Branch area.
- (6) All deliberations of Divisional Branch Council shall be submitted to members at special summons meetings called for the purpose.

41 – MEETING OF DIVISIONAL BRANCH COUNCIL

- (a) The Divisional Branch Council shall meet at least biennially, a majority of members to form a quorum, the agenda of such Divisional Branch Council to be in the hands of delegates at least 14 days prior to Divisional Branch Council. Special Divisional Branch Council may be convened by the Divisional Branch Management Committee at any time provided that each delegate of Divisional Branch Council is given seven days' notice in writing prior to such meeting.

Meetings of the Divisional Branch Council shall be held at such time and place as shall be decided by the Divisional Branch Management Committee in terms of these rules.

The Divisional Branch Secretary shall arrange for notices of the meeting to be given to each Divisional Branch Councillor by letter, telegram, or telex or by telephone or verbally, provided that in the latter instances, such is confirmed by letter or telegram or telex.

- (b) Special meetings of the Divisional Branch Council shall be held if two thirds or more of the delegates of the Divisional Branch Council sign a petition calling for such a special Divisional Branch Council meeting.

Provided also that the Divisional Branch Management Committee may cause a postal ballot of Divisional Branch Council Delegates to be taken on matters of urgency and that the decision of such ballot shall have the same force as a decision of Divisional Branch Council.

42 – DIVISIONAL BRANCH MANAGEMENT COMMITTEE

- (a) (i) Without affecting the term of office of persons holding office as Divisional Branch Management Committee members immediately prior to the date of certification of this sub-rule, the Divisional Branch Management Committee of the New South Wales Divisional Branch shall, on and from 2 January, 2013, or the declaration of the election in 2012, whichever is the later, consist of the Divisional Branch President, Divisional Branch Secretary, two Divisional Branch Assistant Secretaries and 26 other members elected by and from the members of the Divisional Branch.

No member shall hold any two of the above positions at any one time.

- (ii) (A) In the QNTDB there shall be a Divisional Branch Executive which shall consist of the following:
- A. the Divisional Branch President;
 - B. two (2) Divisional Branch Senior Vice-Presidents;
 - C. two (2) Divisional Branch Vice-Presidents;
 - D. Divisional Branch Secretary;
 - E. Divisional Branch Assistant Secretaries; and
 - F. two (2) Divisional Branch Executive Members.
- (B) Any reference in these rules or any rules of the union to the Divisional Branch Management Committee shall in the case of the Queensland Northern Territory Divisional Branch be taken so far as the context allows to be a reference to the Queensland Northern Territory Divisional Branch Executive established in accordance with this sub-rule.

(iii) For the Divisional Branch elections scheduled for 2024 and onwards, in the Australian Capital Territory the Divisional Branch Management Committee shall consist of the Divisional Branch President (which position shall be honorary), two (2) Divisional Branch Vice-Presidents (which positions shall be honorary), the Divisional Branch Secretary/Treasurer, the Divisional Branch Assistant Secretary, ~~and eleven (11) other members~~ **and one (1) additional member who must be a woman.** ~~Provided however that there shall be at least one painter, 1 FEDFA (ie member eligible pursuant to National Rule 2(E)), 1 bricklayer, 4 builders labourers, 3 carpenters and one other representative elected from the classifications of stone mason, slater and tiler, wall and floor tiler or plasterer on the Divisional Branch Management Committee.~~

Commented [LW47]: See item 4 in summary table

(iv) In Western Australia the Divisional Branch Management Committee shall consist of the Divisional Branch President, the Divisional Branch Senior Vice President, the Divisional Branch Secretary, the Divisional Branch Assistant Secretary, the Divisional Branch Treasurer, three (3) Divisional Branch Trustees and five (5) Divisional Branch Management Committee members.

(v) The members of the Divisional Branch Management Committee of the Victoria-Tasmania Divisional Branch shall consist of the Divisional Branch President, Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, the Divisional Branch Senior Vice-President ~~(FEDFA)~~, the Divisional Branch Vice-President, the Sub-Branch Secretary and Sub-Branch President referred to in Rule 42B(ii) herein and 23 others consisting of 6 carpenters, 6 builders labourers, 2 painters/signwriters, 1 fibrous plasterer/fibrous plaster industry member, 6 others elected from the classifications of crane operations, rigger/dogman, plant and machine operators, boiler attendant/engine driver, production worker (metal), concrete pump operations, forklift operations, hoist operations and drilling/piling, and 2 other members elected from bricklayers, roof-tilers, stone masons, wall and floor tilers and solid plasterers, provided that at least one of whom shall be a bricklayer.

Commented [LW48]: See item 23 in summary table

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW49]: This is a reference to Schedule 1, Item 24 which updates the name of the Vic-Tas branch to the Vic-Tas-SA branch

(vi) In South Australia the Divisional Branch Management Committee shall consist of the Divisional Branch President, (which position shall be honorary), the Divisional Branch Vice President, the Divisional Branch Secretary, the Divisional Branch Assistant Secretary, the Divisional Branch Treasurer, two (2) Divisional Branch Trustees, five (5) Divisional Branch Management Committee members and two (2) Organisers. The balance between full time officials, (excluding the Divisional Branch Secretary), and rank and file members on the Divisional Branch Management Committee shall approximate one third (1/3rd) paid officials to two thirds (2/3rd) non paid members.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW50]: This is a reference to Schedule 1, Item 25 which deletes the sub-rule

(b) A quorum for any meeting shall be a majority of the members of the Divisional Branch Management Committee who actually hold a position at the time of the commencement of the meeting or ten (10) members of the Divisional Branch Management Committee, whichever is the lesser.

(c) The Divisional Branch Management Committee shall meet at least once each month and, subject to a review of their actions by the Divisional Branch Council shall have the care, control, superintendence, management and administration in all respects of the affairs, funds and property of the Divisional Branch and shall have all the powers of the Divisional Branch Council including, without limiting, the power, subject to rule 16 hereof, to amend or add to the rules.

Meetings of the Divisional Branch Management Committee shall be held at such time and place as shall be decided by the Divisional Branch Secretary and the Divisional Branch President, subject to the provisions of these rules.

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42 – DIVISIONAL BRANCH MANAGEMENT COMMITTEE

The Divisional Branch Secretary shall arrange for notice of meetings to be given to each Divisional Branch Management Committee member by letter or any electronic means or telephone or verbally, provided that in the latter two instances, such is confirmed by letter, facsimile or electronic means.

- (d) The Committee shall carry out any duties which they have been directed to perform by the Divisional Branch Council under Rule 13.
- (e) They shall be responsible for the control and supervision of all officers. They may delegate this responsibility in respect to nominated classes of officers to the Divisional Branch Secretary for the exercise of this responsibility on a daily basis in between meetings of the Divisional Branch Management Committee on a temporary or ongoing basis and upon any terms or conditions they see fit; provided that such delegation may be revoked at any time by a subsequent meeting of the Divisional Branch Management Committee. They shall also deal with the proposed Divisional Branch Council Agenda prepared by the Divisional Branch Secretary.
- (f) They shall deal with applications for membership, claims for Tool and Funeral Benefit, also grants from Contingent Funds.
- (g) They shall issue instructions for prosecution for recovery of arrears and fines of members if, after due consideration such prosecution is deemed warranted; also for breaches of legislation, Awards, agreements and all matters in connection with Worker's Compensation Act.
- (h) They shall make provision for the registration of members for employment and issue instructions to the Divisional Branch Assistant Secretary for the supervision of the engagement of labour.
- (j) They shall be responsible for convening and conducting general meetings of the members, as provided for in the Rules.
- (k) They shall be responsible for the calling of any meetings necessary for the proper administration of the Divisional Branch, including meetings of members or stewards.
- (l)
 - (i) They may impose penalties, including fines not exceeding the sum of \$100.00 on Divisional Branch Officers, councillors, members, committee persons or delegates representing the Divisional Branch for knowingly refusing to comply with the Rules, or the decisions of Divisional Branch Council or the Divisional Branch Management Committee, or knowingly refusing to carry out the policy of the Divisional Branch, provided that the Rules, decisions of Divisional Branch Council or Divisional Branch Management Committee are available to members in the minutes of the Divisional Branch Council or Divisional Branch Management Committee at the Divisional Branch Office.
 - (ii) They may suspend, expel or dismiss from office, divisional branch officers, divisional branch councillors, members, committee members or delegates representing the Divisional Branch for misappropriation of the funds of the Divisional Branch or for a substantial breach of the rules of the Divisional Branch or for gross misbehaviour or gross neglect of duty.
- (m) Upon a petition being forwarded to the Divisional Branch Secretary, signed by 10% of the financial members, in respect of any district or any zone, except in the case of the Sydney zone where the petition must be signed by 5% of the financial members convene a special meeting of the membership, in that zone or trade district. The financial members, signing the petition must come from the zone or craft district for which a special meeting is being petitioned.
- (n) They shall satisfy themselves as to the integrity of employers of juvenile labour based upon a report of job or shop stewards or full-time officials.
- (o) They shall inform Apprenticeship Councils of the unsuitability of an employer to train apprentices.

42 – DIVISIONAL BRANCH MANAGEMENT COMMITTEE

- (p) A special meeting of the Divisional Branch Management Committee may be called by the Divisional Branch President and shall be called by the Divisional Branch President if he is so requested by not less than 40% of the representatives on the Divisional Branch Management Committee.
- (q) They shall from among themselves elect a Divisional Branch Vice President and Divisional Branch Trustees such Divisional Branch Vice Presidents and Divisional Branch Trustees shall be elected for a 4 year term of office (or otherwise in accordance with rule 38(b)). Any member of the Divisional Branch Management Committee may nominate themselves for any such position by notice in writing to the Returning Officer. In any election the procedure to be followed shall be, the necessary changes being made, the procedure for the election of Divisional Executive in accordance with Construction and General Divisional Rule 9 which shall occur at the first meeting of the Divisional Branch Management Committee after the assumption of office of that Committee following the general elections.
- (r) The Divisional Branch Management Committee shall have the power to appoint temporary organisers whenever this is considered necessary. They shall not, by virtue only by their appointment as temporary organisers, be Officers of the Branch nor shall they, by virtue only by their appointment as temporary organisers, exercise any function of management, but shall act as directed by the Divisional Branch Secretary. Such appointments are subject to satisfactory performance of their allocated duties. Except where the context otherwise necessitates, the term 'organiser' where used in these Rules shall not include temporary organisers.

The Divisional Branch Management Committee may, with the consent of a state registered counterpart union and an officer or employee thereof, by resolution, appoint the said officer and/or employee, or any one of them, as an employee of the Divisional Branch, and for that purpose reach agreement with the said officer/employee and the said state registered counterpart union as to how much, if any, of the wages of the person/s so appointed shall be contributed by the Divisional Branch.

In such case such an appointee shall:-

- (i) be an employee of the Divisional Branch if and only if, and only to the extent that they are performing functions that are necessarily and expressly functions of the Divisional Branch and not the state registered counterpart union;
- (ii) during that period, be subject to the direction and control of the governing bodies of the Divisional Branch in accordance with these rules, but only when acting in that capacity, and
- (iii) be entitled to those rights conferred on employees of a registered organisation by the Workplace Relations Act 1996 or any successor legislation thereto.
- (s) A loan, grant or donation of an amount exceeding \$1,000 shall not be made by this Divisional Branch unless the Divisional Branch Management Committee -
- (a) has satisfied itself -
- (i) that the making of the loan, grant or donation would be in accordance with the rules of the Union; and
- (ii) in relation to a loan - that, in the circumstances, 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; and
- (b) has approved the making of the loan, grant or donation.
- (t) The Divisional Branch Management Committee, on receipt of a petition signed by not less than 10% of the financial members of the Divisional Branch, shall convene a special Divisional Branch Council

~~105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]~~ ~~105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]~~

43 – DUTIES OF DIVISIONAL BRANCH PRESIDENT

meeting or conduct a ballot of Divisional Branch Council in respect of any matter determined by the Divisional Branch Management Committee, to which members are objecting.

42A – DIVISIONAL BRANCH EXECUTIVE COMMITTEE (VICTORIA-TASMANIA)

Note: This heading is affected by the operation of Schedule 1.

- (i) The Victoria-Tasmania Divisional Branch shall consist of the Divisional Branch President, the Divisional Branch Senior Vice-President, the Divisional Branch Vice-President, the Divisional Branch Secretary and the two Divisional Branch Assistant Secretaries.
- (ii) The Divisional Branch Executive Committee shall meet at least fortnightly or as the need arises.

Note: This sub-rule is affected by the operation of Schedule 1.

- (iii) The Divisional Branch Executive Committee shall have the care, control, superintendence, management and administration in all respect of the affairs, funds and property of the Divisional Branch in between meetings of the Divisional Branch Management Committee and subject to a review of their actions by the Divisional Branch Management Committee.

Commented [LW51]: This is a reference to Schedule 1, Item 26 which amends the heading to "42A - Divisional branch Executive Committee (Victoria-Tasmania-South Australia) and amends (i) to refer to the amalgamated branch. The composition of the committee is unchanged.

Commented [LW52]: As above

42B – DIVISIONAL BRANCH SUB-BRANCH MANAGEMENT COMMITTEE (VICTORIA-TASMANIA)

Note: This heading is affected by the operation of Schedule 1.

- (a) There shall be a Tasmania Sub-Branch Management Committee of the Victoria-Tasmania Divisional Branch.
- (b) The members of the Sub-Branch Management Committee of the Victoria-Tasmania Divisional Branch shall consist of the Sub-Branch Secretary, the Sub-Branch President and six (6) other persons all of whom shall be elected by and from members of the Victoria-Tasmania Divisional Branch who are residing or employed in the State of Tasmania.
- (c) The Victoria-Tasmania Divisional Branch Council and Divisional Branch Management Committee shall have the care, control superintendence, management and administration in all respects of the affairs, business and funds and property of the Victoria-Tasmania Divisional Branch.
- (d) Provided however that the Sub-Branch Management Committee shall have the power to make recommendations to the Divisional Branch Council and Divisional Branch Management Committee in respect of the administration, or matters affecting the interests of, the Divisional Branch in the State of Tasmania only.

Note: This rule is affected by the operation of Schedule 1.

Note: Schedule 1 contains a new rule 42C which has effect in accordance with Schedule 1.

Commented [LW53]: This is a reference to Schedule 1, Item 27 which adds SA to name of amalgamated branch

Commented [LW54]: As above

Commented [LW55]: This is a reference to Schedule 1, Item 27A which inserts rule for SA Sub-Branch management committee

43 – DUTIES OF DIVISIONAL BRANCH PRESIDENT

- (a) The Divisional Branch President shall preside at meetings of the Divisional Branch Council or Divisional Branch Management Committee and meetings convened by the Divisional Branch Council or Divisional Branch Management Committee.

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43 – DUTIES OF DIVISIONAL BRANCH PRESIDENT

- (b) (i) The Divisional Branch President, during such term of office shall hold no other position within the Divisional Branch provided for in these Divisional Branch Rules. Provided however that the position of Divisional Branch delegate to Divisional Conference shall not be considered as a position within the Divisional Branch for the purpose of this sub-rule. Further provided that in the case of the NSW Divisional Branch, this sub-rule shall not prevent the Divisional Branch Management Committee from designating the Divisional Branch President as Acting Divisional Branch Secretary in accordance with Rule 47(b) herein, or the Divisional Branch President so designated from acting in that capacity.
- (ii) In the New South Wales Divisional Branch and the Victoria-Tasmania Divisional Branch, the Divisional Branch President shall be employed in a full-time capacity.

Note: This sub-rule is affected by the operation of Schedule 1.

- (c) The Divisional Branch President shall carry out such duties as may be assigned from time to time by the Divisional Branch Management Committee, and by the Divisional Branch Secretary acting on their behalf.
- (d) The Divisional Branch President shall conduct business in accordance with Rules laid down for his/her guidance. The Divisional Branch President shall not enter debate on any question except by leave of the Divisional Branch Management Committee, but shall endeavour to bring the business to a satisfactory conclusion. The Divisional Branch President shall have a casting vote only.
- (e) The Divisional Branch President shall sign the minutes of proceedings of Divisional Branch Council, Divisional Branch Management Committee, or any meeting convened by the Divisional Branch Council or Divisional Branch Management Committee when same have been duly confirmed.
- (f) The Divisional Branch President shall examine bank vouchers setting out bank balance, record of each banking transaction, countersign all orders of payment of any money authorised by the Divisional Branch Council or Divisional Branch Management Committee which is in accordance with Rules.
- (g) The Divisional Branch President shall cause to be entered in the minutes of the Divisional Branch Management Committee a record of all payments, monies received and banked and statement of cash in hand.
- (h) The Divisional Branch President may be required by resolution of the Divisional Branch Council or Divisional Branch Management Committee to attend to any business concerning the finances and administration of the Divisional Branch either in connection with the Divisional Branch Council, Divisional Branch Management Committee or District Committees, and shall if so required submit a report in writing of the findings to the Divisional Branch Council and Divisional Branch Management Committee members.
- (j) The Divisional Branch President shall be an ex-officio member of all Committees of the Divisional Branch.
- (k) In the New South Wales Divisional Branch, in the absence of the Divisional Branch President the Divisional Branch Management Committee shall designate one of the Divisional Branch Assistant Secretaries as the Acting Divisional Branch President.

Commented [LW56]: This is a reference to Schedule 1, Item 28 which adds SA to name of amalgamated branch

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44 – DIVISIONAL BRANCH VICE PRESIDENT

- (i) Except in the New South Wales Divisional Branch, the Victoria-Tasmania Divisional Branch, the Queensland and Northern Territory Divisional Branch and the ACT and Western Australian Divisional Branches the Divisional Branch Vice-President shall be elected by the Divisional Branch Management Committee from among its members and shall preside at meetings in the absence of the Divisional Branch President, and shall carry out the duties of the Divisional Branch President and such duties as may be required by resolution of the Divisional Branch Council or Divisional Branch Management Committee which are in accordance with these rules.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW57]: This is a reference to Schedule 1, Item 29 which deletes (i) (because SA is the only branch effected by the rule)

- (ii) Notwithstanding any contrary provisions in these rules, in the integrated South Australian Divisional Branch the Divisional Branch Vice-Presidents shall, commencing with the persons elected to that office as from 2 January, 1997, be elected by and from the members of the Divisional Branch.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW58]: This is a reference to Schedule 1, Item 30 which deletes (ii)

- (iii) In Victoria-Tasmania the Divisional Branch Vice-Presidents shall have such duties and responsibilities as may be determined from time to time by the Divisional Branch Council or the Divisional Branch Management Committee.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW59]: This is a reference to Schedule 1, Item 31 which updates the name of the amalgamated Vic-Tas-SA branch

- ~~(iv) In Victoria-Tasmania the Divisional Branch Vice-President (FEDFA) shall, in addition to any other duties and responsibilities as may be determined from time to time by Divisional Branch Council or the Divisional Branch Management Committee and which may be applicable to the Divisional Branch Vice-Presidents generally, carry out such other functions, and exercise such other powers, in relation to the FEDFA Section of the Branch (where the Divisional Branch Council has created any such Section), as may be determined by the Divisional Branch Council or Divisional Branch Management Committee from time to time.~~

Commented [LW60]: See item 24 of summary table

~~*Note: This sub-rule is affected by the operation of Schedule 1.*~~

Commented [LW61]: As above

45 – DIVISIONAL BRANCH TRUSTEES

- (a) Except in the case of the South Australian Divisional Branch, the Divisional Branch Management Committee shall elect from among themselves, three trustees. The election shall be conducted in accordance with Rule 42(q). Provided however that there shall be no trustees in the New South Wales Divisional Branch.

On a written authority signed by the Divisional Branch President and the Divisional Branch Secretary any two of the three Divisional Branch Trustees shall sign cheques for such sums as may be voted by the Divisional Branch Council or Divisional Branch Management Committee in accordance with these Rules. Such cheques to be counter signed by the designated Divisional Branch Assistant Secretary. The designated Divisional Branch Assistant Secretary will be determined by the State Management Committee or equivalent body.

In the New South Wales Divisional Branch either the Divisional Branch Secretary and the Divisional Branch President, or the Divisional Branch Secretary or the Divisional Branch President and such other person as is nominated by the Divisional Branch Management Committee from time to time, shall sign cheques for such sums as may be authorised in accordance with these rules. Provided however that the nomination referred to herein may be on such terms as determined by the Divisional Branch Management Committee and may be revoked at any time. Further provided that all

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46 – DUTIES OF DIVISIONAL BRANCH SECRETARY

expenditure of the Divisional Branch shall be placed before the Divisional Branch Management Committee for consideration and ratification.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW62]: This is a reference to Schedule 1, Item 32 which deletes the ref to SA Branch in (a)

- (b) In the South Australian Divisional Branch, there shall be two trustees elected by and from the membership of the Divisional Branch and such Trustees shall take up office on and from 2 January, 1997 and each four years thereafter (or in the event of a delay in the conduct of an election, in accordance with rule 38(b)). In the absence of either the Divisional Branch President or Divisional Branch Secretary or Divisional Branch Treasurer the Divisional Branch Assistant Secretary shall sign cheques for such sums as may be approved by the Divisional Branch Council or Divisional Branch Management Committee in accordance with these rules. In the absence of more than one of the three first mentioned officers in the second sentence of this sub-rule, one or more of the Divisional Branch Trustees shall countersign such cheques with the remaining officer and/or the Divisional Branch Assistant Secretary.

The Divisional Branch Trustees shall assist the Divisional Branch Treasurer in carrying out his/her duties.

Note: This sub-rule is affected by the operation of Schedule 1.

Commented [LW63]: This is a reference to Schedule 1, Item 32 which deletes (b)

- (c) The funds of the Divisional Branch shall be banked in an account styled in the name of the Divisional Branch.
- (d) The Divisional Branch Trustees shall have powers and immunities as conferred by statute on such Trustees.

46 – DUTIES OF DIVISIONAL BRANCH SECRETARY

- (a) The Divisional Branch Secretary shall be under the control of the Divisional Branch Council and the Divisional Branch Management Committee and shall be employed in a full time capacity, and shall conduct correspondence in connection with all industrial matters and in general administration of the Divisional Branch.
- (b) The Divisional Branch Secretary shall be responsible for the carrying out of the decisions made by the Divisional Branch Council or Divisional Branch Management Committee.
- (c) The Divisional Branch Secretary shall be responsible for the enforcement of all Awards and Industrial Agreements and shall supervise the conduct of all wages claims, compensation matters and legal matters coming within the jurisdiction of the Divisional Branch Council or Divisional Branch Management Committee.
- (d) The Divisional Branch Secretary shall cause to be prepared and forwarded to the Industrial Registrar, returns as required by law.
- (e) The Divisional Branch Secretary shall have prepared a properly audited financial statement of receipts and payments and all the funds and effects of the Divisional Branch Office, together with a statement of the assets and liabilities of the Divisional Branch Office for the financial year ending 31st December. Provided however that the financial year for the Divisional Branches shall, on and from 1 April 2017, and for each year thereafter, commence on and from 1 April each year and end on 31 March of each following year.

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(2) ATTENDANCE OF ORGANISERS ELECTED AT MEETINGS OF DIVISIONAL BRANCH COUNCIL AND DIVISIONAL BRANCH MANAGEMENT COMMITTEE

- (f) The Divisional Branch Secretary shall prepare the agenda for and minutes of each Divisional Branch Council meeting; and shall attend meetings of the Divisional Branch Council, Divisional Branch Management Committee and other meetings called by the Divisional Branch Council or Divisional Branch Management Committee.
- (g) The Divisional Branch Secretary shall be responsible for the production of Divisional Branch publications.
- (h) The Divisional Branch Secretary shall be responsible for the itinerary of organisers duties.
- (j) The Divisional Branch Secretary shall be an ex officio member of all committees of the Divisional Branch.
- (k) The Divisional Branch Secretary shall be an elected delegate to Divisional Conference by virtue of his/her office.

Note: Schedule 1 contains a new rule 46(l) which has effect in accordance with Schedule 1.

Commented [LW64]: This is a reference to Schedule 1, Item 33 which inserts new (l) the effect of which is to allow the Vic-Tas-SA Secretary to delegate duties to the SA Sub-Branch Secretary

47 – DUTIES OF DIVISIONAL BRANCH ASSISTANT SECRETARY

- (a) The Divisional Branch Assistant Secretary/ies (if any) shall be under the control of the Divisional Branch Council and the Divisional Branch Management Committee, and shall work under the direction of the Divisional Branch Secretary. They shall attend all meetings of the Divisional Branch Council and the Divisional Branch Management Committee.
- (b) The Divisional Branch Assistant Secretary/ies shall, in the absence of the Divisional Branch Secretary, fulfil the office and perform the duties of the Divisional Branch Secretary. Where there is more than one Assistant Secretary, the Divisional Branch Management Committee shall designate one of the Assistant Secretaries to perform the duties. Provided however that in the case of the NSW Divisional Branch, the Divisional Branch Management Committee shall designate from amongst the Divisional Branch President and the Divisional Branch Assistant Secretaries, the officer who shall fulfil the office and perform the duties of the Divisional Branch Secretary.

48 – (1) DUTIES OF ORGANISERS

- (a) They shall be under the control and supervision of the Divisional Branch Management Committee and shall carry out their duties within the provisions of the Rules. [Rule 11 does not apply to Organisers](#).
- (b) They shall visit shops and jobs where members of the Divisional Branch and other workers eligible to join are employed and endeavour to enrol new members. They shall co-operate with all Shop and Job Stewards and District Secretaries, and carry out organisational work in any part of the State or Territory as directed by the Divisional Branch Management Committee.
- (c) Nothing in this rule affects the right of an organiser elected, in accordance with the rules of the Divisional Branch, as a member of either the Divisional Branch Management Committee or the Divisional Branch Council.

Commented [LW65]: See items 29-31 in summary table

(2) ATTENDANCE OF ORGANISERS ELECTED AT MEETINGS OF DIVISIONAL BRANCH COUNCIL AND DIVISIONAL BRANCH MANAGEMENT COMMITTEE

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48A – DUTIES OF DIVISIONAL BRANCH TREASURER

- (a) An elected Organiser who is not otherwise a member of the Divisional Branch Management Committee shall attend any meeting of the Divisional Branch Management Committee when requested so to do by resolution of Divisional Branch Management Committee. An elected or temporary Organiser shall be allowed to attend a meeting of the Divisional Branch Management Committee if the Organiser desires so to do unless otherwise directed by the Divisional Branch Management Committee.

Such an Organiser may by permission of the Divisional Branch Management Committee speak on any matter before the meeting, but shall not move, second or vote on any question.

- (b) Each elected Organiser who is not otherwise a member of the Divisional Branch Council shall attend the meetings of Divisional Branch Council when required so to do by resolution of Divisional Branch Management Committee, but shall not move, second or vote on any question.

48A – DUTIES OF DIVISIONAL BRANCH TREASURER

- (a) In the South Australian Divisional Branch, the Divisional Branch Treasurer shall:
- (i) obtain and receive such details of all moneys collected or received and banked by him/her as are necessary for the keeping of the books of accounts.
 - (ii) in conjunction with any two of the following - Divisional Branch Secretary, Divisional Branch Assistant Secretary, Divisional Branch Senior Vice-President or Divisional Branch President - sign all cheques and attend all meetings of the Divisional Branch Management Committee.
 - (iii) keep all necessary books of accounts and produce same for inspection at any time when called upon to do so by the Divisional Branch Committee of Management or auditors.
 - (iv) at each meeting of the Divisional Branch Committee of Management present a report of the Divisional Branch's financial transactions for the period since the immediately preceding meeting.

Note: This sub-rule is affected by the operation of Schedule 1.

- (b) In the Western Australian Divisional Branch, the Divisional Branch Treasurer shall:
- (i) draw up a report and balance sheet for submission to members in the months of January and July and submit his or her books and accounts to the Auditor half-yearly;
 - (ii) receive all moneys and pay them into the bank account of the Divisional Branch immediately, with the exception of petty cash not exceeding five hundred dollars (\$500.00) at any one time;
 - (iii) keep a distinct and intelligible account of all moneys received and expended, with vouchers detailed therefore;
 - (iv) submit a statement of his or her receipts and expenditure every three months to the members of the Divisional Branch attending a General Meeting;
 - (v) not make any payment, other than for his or her own travelling and accommodation expenses incurred whilst on union business, exceeding twenty dollars (\$20.00) except by cheque.

Commented [LW66]: This is a reference to Schedule 1, Item 34 which deletes (a)

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48D – DUTIES OF DIVISIONAL BRANCH SENIOR VICE-PRESIDENT (WESTERN AUSTRALIA)

48B – DUTIES OF DIVISIONAL BRANCH SENIOR VICE-PRESIDENT (FEDFA) (VICTORIA-TASMANIA)

Note: This heading is affected by the operation of Schedule 1.

(1) This rule applies only in relation to the Victoria-Tasmania Divisional Branch.

Note: This sub-rule is affected by the operation of Schedule 1.

(2) The Divisional Branch Senior Vice-President (FEDFA) shall preside at meetings of the Divisional Branch Council or Divisional Branch Management Committee, or meetings convened by either of these bodies, in the absence of the Divisional Branch President, and shall perform such other functions in relation to meetings, in the absence of the Divisional Branch President, as may otherwise be required of the Divisional Branch President.

(3) The Divisional Branch Senior Vice-President (FEDFA) shall carry out such duties as may be assigned to him or her from time to time by the Divisional Branch Management Committee.

(4) The Divisional Branch Senior Vice-President (FEDFA) shall carry out such other functions, and exercise such other powers, in relation to the FEDFA Section of the Branch, as may be determined by the Divisional Branch Council from time to time.

(5) The Divisional Branch Senior Vice President (FEDFA) shall be employed in a full-time capacity.

(6) The Divisional Branch Senior Vice-President (FEDFA) shall be an ex-officio member of all Committees of the Divisional Branch.

48C - DELETED

~~**48C – DUTIES OF DIVISIONAL BRANCH ASSISTANT SECRETARY (FEDFA)**~~

~~(1) This rule applies only in relation to the Victoria Tasmania Divisional Branch.~~

~~Note: This sub-rule is affected by the operation of Schedule 1.~~

~~(2) The Divisional Branch Assistant Secretary (FEDFA) shall be under the control of the Divisional Branch Council and the Divisional Branch Management Committee, and shall, subject to sub rule (3) hereof, work under the direction of the Divisional Branch Secretary.~~

~~(3) The Divisional Branch Assistant Secretary (FEDFA) shall carry out such other functions, and exercise such other powers, in relation to the FEDFA Section of the Branch, as may be determined by the Divisional Branch Council from time to time.~~

~~(4) The Divisional Branch Assistant Secretary (FEDFA) shall attend all meetings of the Divisional Branch Council and Divisional Branch Management Committee.~~

~~(5) The Divisional Branch Assistant Secretary (FEDFA) shall be employed in a full time capacity.~~

~~(6) The Divisional Branch Assistant Secretary (FEDFA) shall be an ex-officio member of all Committees of the Divisional Branch.~~

48D – DUTIES OF DIVISIONAL BRANCH SENIOR VICE-PRESIDENT (WESTERN AUSTRALIA)

Commented [LW67]: See Item 25 in summary table

Commented [LW68]: This is a reference to Schedule 1, Item 35 which updates heading to update name of amalgamated branch

Commented [LW69]: This is a reference to Schedule 1, Item 35 as above

Commented [LW70]: See item 25 in summary table

Commented [LW71]: See item 21 in summary table

Commented [LW72]: This is a reference to Schedule 1, Item 36 which adds SA to name of branch

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49 – FULL TIME PAID OFFICERS

Notwithstanding the provisions of any other rule relating to the duties of Divisional Branch officers, in the Western Australian Divisional Branch the duties of the Divisional Branch President shall, in his or her absence, be performed by the Divisional Branch Senior Vice President.

In the absence of both the Divisional Branch President and the Divisional Branch Senior Vice President, the Divisional Branch Vice President shall perform the duties of the Divisional Branch President. In the simultaneous absence of the Divisional Branch President, Divisional Branch Senior Vice President and Divisional Branch Vice President, the Divisional Branch Management Committee may appoint a member to carry out the duties of the President.

48E – DELETED

48F – DIVISIONAL BRANCH SENIOR VICE-PRESIDENTS/DIVISIONAL BRANCH VICE-PRESIDENTS (QUEENSLAND)

- (i) This rule applies only in relation to the QNTDB and notwithstanding the provisions of any other rule relating to the duties of Divisional Branch officers.
- (ii) In the QNTDB there shall be two Divisional Branch Senior Vice-Presidents one of whom shall, in the absence of the Divisional Branch President, preside at meetings of, or convened by, the Divisional Branch Council or Divisional Branch Executive. The Divisional Branch Executive will determine, for the purposes of this sub-rule, which of the Divisional Senior Vice-Presidents is to so act.
- (iii) The Divisional Branch Senior Vice-Presidents in the QNTDB shall have such other duties and responsibilities as may be determined from time to time by the Divisional Branch Executive.
- (iv) The Divisional Branch Vice-Presidents in the QNTDB shall have such duties and responsibilities as may be determined from time to time by the Divisional Branch Executive.

49 – FULL TIME PAID OFFICERS

- (a) A member who has been elected to any positions in a full-time capacity shall be employed full time in the service of the Divisional Branch and be paid such weekly wage as shall be determined at a properly constituted meeting of the Divisional Branch Council; provided however, that the rate fixed shall not be less than the leading hand rate in the highest major Award for carpenters in the building industry.
- (b) Full-time paid officers shall be under the control of the Divisional Branch Management Committee between Divisional Branch Council meetings and shall carry out all instructions of the Divisional Branch Council or Divisional Branch Management Committee in accordance with the Rules.
- (c) Should a full-time paid officer desire to resign they shall give one (1) month's notice in writing of his intention so to do to the Divisional Branch Management Committee.
- (d) A full-time paid officer shall not work for any other person, body or corporation for profit or reward, or at all, during their term of office without the sanction of the Divisional Branch Council first being obtained.
- (e) Should any elected full-time officer through illness or any other physical disability be unable to carry out the duties as prescribed by the Rules, the officer shall furnish a medical certificate to the Divisional Branch Management Committee within seven days of becoming unable to carry out the duties setting out the nature of the disability, and the duration of such incapacity so far as the same can be estimated, and before resuming duties the officer shall furnish to the Divisional Branch

Commented [LW73]: See Items 29-31 of summary table

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52 – DUTIES OF MEMBERS

Management Committee a medical certificate setting out that he/she has recovered and is capable to carry out the duties in accordance with the Rules.

50 – DUTIES OF MEMBERS OF DIVISIONAL BRANCH MANAGEMENT COMMITTEES

- (i) The members of the Divisional Branch Management Committee shall attend meetings of the Divisional Branch Management Committee and of the Divisional Branch Council.

51 – REMOVAL OF OFFICERS AND COUNCILLORS (BRANCH AND DISTRICT)

- (a) The position of any divisional branch officer or Divisional Branch Councillor or delegate to Divisional Conference shall become vacant upon:
 - (i) His/her becoming unfinancial;
 - (ii) His/her decease or becoming of unsound mind and body;
 - (iii) His/her resignation in writing addressed to the Divisional Branch Secretary.
- (b) Any officer of a divisional branch may be removed from office by a two-thirds majority of that Divisional Branch Management Committee at a special meeting of the Divisional Branch Management Committee called for the purpose where the officer has been charged and found guilty in accordance with the rules of the Divisional Branch of misappropriation of the funds of the Divisional Branch or a substantial breach of the rules of the Divisional Branch or gross misbehaviour or gross neglect of duty or has ceased, according to these rules to be eligible to hold office.
- (c) Any officer of Divisional Branch Council or District Committee member charged may be suspended immediately by decision of the Divisional Branch Management Committee pending hearing of the charges against that officer.

Charges must be laid in writing setting out the particulars of the alleged violation of rules. The officer or Divisional Branch Councillor or District Committee member charged shall be given reasonable opportunity to attend the meeting at which the charges are heard and of being heard in his defence, or if the officer prefers, may answer the charges in writing.

In case of an appeal against any suspension or penalty or dismissal the grounds for such suspension or penalty or dismissal together with the appeal of the officer suspended, shall be fully set out and submitted to Divisional Branch Council as soon as it is conveniently possible from the date of decision. Rule 55 - Appeals of Members shall apply.

52 – DUTIES OF MEMBERS

- (a) It shall be the duty of members to attend meetings and record their votes in all ballots and questions that are submitted to them by the authorised body in the Divisional Branch.
- (b) They shall give written notice of change of address within fourteen (14) days. No unnotified change of address or classification shall give rise to any irregularity or liability in the union and the unions records as to the classification, class, industry, division, occupation, address or any other matter relevant to any right under these rules shall, insofar as such information has been provided by or to the member, shall be binding and conclusive as to its truth.

54 – PAYMENT OF FINES

- (c) They shall endeavour to improve the organisation and see that all Rules, including local or district registered working Rules are observed, and co-operate with officers and all Divisional Branch representatives accredited by the Divisional Branch Management Committee.
- (d) Notwithstanding anything contained in these Rules, no member shall be required to do or omit to do any act, which would be a breach of the Industrial Relations Act, or the Award governing his calling.

53 – MISCONDUCT OF MEMBERS

- (a) A member knowingly violating any registered Rule or By-Law of the Divisional Branch may be fined a sum not exceeding \$100 by the District Committee. Should, however, the matter be referred to the Divisional Branch Management Committee, they shall have the power to fine a sum not exceeding \$100 expel or suspend from benefit for a period not exceeding six months for such offence.
- (b) Any member acting in a disorderly manner during a meeting or acting in opposition to the ruling of the Presiding Officer may be fined a sum not exceeding \$20 and should he persist the Presiding Officer shall have power to call on the members to expel that member from such meeting.
- (c) It shall be competent for the Divisional Branch Management Committee to inflict a fine not exceeding \$20.00, suspend from benefit for a period not exceeding six months, any member from the Divisional Branch upon satisfactory proof being given that such member has knowingly refused to comply with decisions of the Divisional Branch Council or the Divisional Branch Management Committee.
- (d) It shall be competent for the Divisional Branch Management Committee to expel any member for misappropriation of the fund of the Divisional Branch or for a substantial breach of the Rules of the Divisional Branch or for gross misbehaviour or gross neglect of duty.
- (e) Charges under these Rules shall be made in writing within one (1) month of the discovery of the incident to which it refers, to the District Committee or the Divisional Branch Management Committee.

The members so charged shall be summoned to attend a meeting of Committee or Management Committee by a written notice giving the short substance of the charges and notifying the time and place of meeting. Such notice shall be posted to the members last known place of abode not less than five (5) days, or in the case of a member whose last known place of abode is situated more than 100 miles from the place where the charge is to be heard, not less than ten (10) days, before the date of such meeting.

At the appointed time and place the charge shall be investigated either by the District Committee or Divisional Branch Management Committee, whether or not the member shall be in attendance.

The decision of the Committee or Management Committee shall be binding on the member, subject to right of appeal. A member charged shall be given a reasonable opportunity to be heard in their defence and may if the member desires answer the charges in writing.

Any member making a charge which upon investigation proves to be false or frivolous shall be dealt with as the Divisional Branch Council or Divisional Branch Management Committee may decide.

54 – PAYMENT OF FINES

A member who is fined for any offence under these Rules shall pay such fine within 21 days following the date of the imposition of the fine. Should the fine not be paid, the amount due shall be added to the member's annual account.

55 – APPEALS OF MEMBERS

- (a) Any member or members finding themselves aggrieved or having any complaint against the officers or members of the Union may make a written appeal to the District Committee for redress, who shall in the case of appeals on any matter that does not relate to the District management forward the appeal to the Divisional Branch Management Committee within one month.
- (b) Any members dissatisfied with the decision of the District Committee may appeal to the Divisional Branch Management Committee within one month of the decision being given.
- (c) Any member dissatisfied with the decision of the Divisional Branch Management Committee may appeal against the decision to the Divisional Branch Council within one (1) month after the hearing of his case by the Divisional Branch Management Committee.
- (d) An appeal shall be in writing and shall be lodged with the Divisional Branch Secretary. The appeal shall set forth concisely the grounds on which it is based and the Divisional Branch Management Committee or Divisional Branch Council shall review the evidence taken at the original hearing of the charge, whereupon the Divisional Management Committee or Divisional Branch Council may confirm, annul or modify the penalty.

Should the appellant desire to appear in person before the Divisional Branch Management Committee or Divisional Branch Council the appellant member shall be afforded the opportunity to do so.

56 – DISTRICT COMMITTEES

- (a) District Committees shall be on a trade or zone basis as provided for in the rules.

Both Zone and Trade District Committees shall be regarded as District Committees and shall be established in accordance with the Rules for the purpose of carrying out organisational work and to co-operate with the Divisional Branch Council or Divisional Branch Management Committee in the administration of the Divisional Branch.
- (b) The Divisional Branch Council may make such by-laws as it sees fit, not inconsistent with the rules of the Union, for the effective operation of Districts and District Committees including to the extent thought necessary the election of District Officers, their duties, the finances thereof and any other matter pertaining thereto.

57 – SHOP STEWARDS/JOB DELEGATES

Shop stewards/job delegates may be appointed by the Divisional Branch Management Committee or appointed by the members in such shop or job. They shall receive proper credentials from the Divisional Branch Management Committee.

- (a) It shall be the duty of all shop stewards/job delegates to endeavour to enrol appropriate workers in their respective shops or jobs into the Union.
- (b) They may receive contributions from members in such shops or jobs and issue a receipt from a receipt book provided by the Divisional Branch Management Committee.
- (c) They shall be responsible for the payments of all monies received by them to the Divisional Branch fortnightly.

- (d) They shall from time to time furnish written reports to the Divisional Branch Management Committee of the industrial conditions pertaining in such shop or job.
- (e) Immediately on conclusion of his employment as a shop steward/job delegate shall return the receipt book to the Divisional Branch Assistant Secretary and obtain an acknowledgement of same.

Shop stewards/job delegates shall return the receipt book for audit twice each year in the months of January and July, or when so required by the Divisional Branch Management Committee to the Divisional Branch Assistant Secretary.

58 – VICTIMISATION

Should any District Secretary, Town Steward, Shop or Job Steward be victimised or reasonably supposed to be victimised for carrying out any duties of the Union, the Divisional Branch Management Committee shall take all necessary steps to see that his interests are protected.

59 – ALLOWANCES

The Divisional Branch Council may determine in any year the allowances, if any, to be paid to persons representing the Divisional Branch or attending meetings at the request of the Divisional Branch or for its purposes.

60 – TOOL BENEFIT

The Divisional Branch Council may establish a tool benefit for the compensation of members whose tools are lost by fire, theft or accident.

61 – FUNERAL BENEFIT

The Divisional Branch may pay out of its funds a funeral benefit to representatives of deceased members. The criteria for eligibility of the funeral benefit to be determined by the Divisional Branch Management Committee.

62 – CONTINGENT FUND

If the Divisional Branch establishes a Contingent Fund, it may be used for the payment of contributions of members who have been financial members for a period of 12 months, and whose payments have not been met due to unemployment, sickness or other reasonable cause.

63 – RULES OF DIVISIONAL BRANCHES AND BY-LAWS

1. Any Divisional Branch may make By-Laws in furtherance of any of the rules contained herein or for the proper functioning of the Divisional Branch or for the proper functioning of any District or Divisional Sub-Branch thereof.
2. Such By-Laws shall be effective and binding on any member to which they would apply.
3. Such By-Laws shall not be inconsistent with any of the rules of the union and shall, to the extent of any inconsistency, be void, ineffective and inoperative.

[105N-BWIU: Incorporates alterations of 7 March 2023 \[R2022/140\]](#) ~~105N-BWIU: Incorporates alterations of 7 March 2023 [R2022/140]~~

64 – STANDING ORDERS AND RULES OF DEBATE – GENERAL MEETINGS

- (a) Order of Business:
1. Opening of meeting.
 2. Reading and adoption of minutes of previous meeting.
 3. Admission of new members.
 4. Election of Officers.
 5. Divisional Branch Management Committee minutes.
 6. Adjourned business.
 7. Reading of Correspondence.
 8. Auditor's Report.
 9. Report of delegates.
 10. Secretary's Cash Account.
 11. New business.
- (b) The first member who attracts the attention of the Divisional Branch President shall have precedence in speaking.
- (c) Members addressing the meeting shall direct their speech to the Presiding Officer and remain standing while so doing.
- (d) No discussion shall be permitted unless there is a motion before the meeting. Any such motion shall be duly proposed and seconded. Any number of amendments may be proposed and discussed simultaneously with the original motion.
- (e) When a motion shall have been duly proposed and seconded, the Divisional Branch President shall proceed at once to take the votes thereon unless some member rises to oppose or to propose an amendment, but no amendment shall be in order unless notice is given to move the same before the proposer of the resolution has replied.
- (f) No more than two members shall speak in succession on one side, either for or against any question before the meeting, and if at the conclusion of the second speaker's remarks no member rises to speak on the other side, the motion or amendment shall be put at once to the meeting.
- (g) It shall be competent at any time during a debate for a member to move, without discussion, "That the question be now put," which, on being duly seconded and carried, shall necessitate the submission of the motion at once to the meeting after the mover has replied.
- (h) In the event of a number of amendments being proposed and discussed the Divisional Branch President shall put them to the vote in the following order: The first amendment shall be voted on, if carried it becomes the motion. If defeated, the original motion stands. The second amendment is then voted on, if carried it becomes the motion. If defeated, the motion stands, that is, the original motion or the first amendment, if carried.

All subsequent amendments shall be dealt with in this order. After the vote on each succeeding amendment has been taken, the surviving proposition shall be put to the vote as the motion, and if carried, becomes a resolution of the meeting.

- (i) No member shall be allowed to speak more than once on the motion, except strictly in explanation, excepting the mover of the original motion, who shall have the right of reply. The mover of the motion shall be allowed 10 minutes to move the motion and 5 minutes to reply. No other speaker shall occupy a longer period than 5 minutes.

The meeting may, however, grant an extension of time to any speaker. No further discussion shall take place nor shall questions be allowed after the mover has replied.

- (j) A resolution may, during the meeting at which it was passed be recommitted on the affirmative vote of two-thirds of those present at such meeting. A resolution may be rescinded by the giving of one month's notice and a majority vote being cast at the meeting subsequent to the expiry of the month's notice.
- (k) On any member rising to a point of order during discussion, the speaker shall sit down and such member on rising shall state the point of order when the Divisional Branch President shall rule thereon. Such ruling shall be final, provided that it is not disagreed with by a majority of those present.
- (l) Questions of order shall be decided by the Chairman, whose ruling shall be final, unless it is challenged by a formal motion for that purpose.
- (m) The Divisional Branch President or Chairman for the time being may speak only on questions in which the interests of the office they represent are directly involved. In the event of the Divisional Branch President or Chairman desiring to speak on any question they shall vacate the chair.
- (n) Should any question have occupied the attention of the meeting for thirty (30) minutes, the discussion on such question shall be deemed to have closed, and the Divisional Branch President shall forthwith call on the mover to reply, unless the meeting decides by resolution (carried by a majority of the members present) to continue the discussion of the matter in question.
- (o) At any meeting of the Divisional Branch any member entitled to be present may give notice of motion for a future meeting by (1) reading such notice to the meeting, or (2) handing a copy thereof to the Divisional Branch President. Such notice of motion shall take precedence in the order in which it stands in the minutes book in relation to other similar notices, unless otherwise ordered, and shall lapse if the member, or some member on their behalf, be not present when the order of the day for such notice is read.

No motion for the adjournment of the meeting shall be received while there is business before the Divisional Branch President.

MOVING DISSENT FROM CHAIRPERSON'S RULING

- (p) Any member dissatisfied with the ruling of the Chairperson may move a motion of dissent as follows: "That the Chairperson's ruling be dissented from."

The motion shall then be put to the meeting by the Vice-Chairperson, without discussion, in the following manner. The question is, "That the Chairperson's ruling be upheld." Those in favour of upholding the Chairperson's ruling, say "Aye." Those against the Chairperson's ruling being upheld, say "No."

The mover only shall speak to the motion, except the Chairperson, who may explain the reasons for the ruling given.

The Vice-Chairperson shall not give a ruling on the question involved in the Chairperson's ruling.

The Vice-Chairperson's ruling shall only be dissented from by a direct appeal to the meeting, the question being put by the Vice-Chairperson without discussion.

- (q) This Rule shall apply only to general meetings of members of the Divisional Branch and shall not apply to Divisional Branch Council or Divisional Branch Committee of Management.

65 – INSPECTION OF BOOKS

The books of the Divisional Branch shall be available for inspection at any reasonable time by any member having an interest in the funds of the Divisional Branch on application being made to the Divisional Branch Secretary

66 – deleted

67 – DIVISIONAL BRANCH COUNCILLORS

In addition to powers elsewhere provided in the Rules, a Divisional Branch Councillor shall have the powers of a shop steward and in respect of Country Councillors powers of a Town Steward.

68 – REFERENDA

- (a) On receipt of a petition signed by not less than 1000 financial members of the Divisional Branch, Divisional Branch Council shall take a referendum of the whole of the financial members of the Divisional Branch in respect of any matter determined by Divisional Branch Council.

Such referendum shall take place within 2 months of the receipt of the petition.

The decision reached by majority of the actual votes recorded shall be binding on the Divisional Branch Council and the members of the Divisional Branch and on the Divisional Branch Management Committee.

- (b) Divisional Branch Council may at any time, by its own motion, take a referendum of the whole of the financial members of the Union upon any matter it thinks fit.
- (c) The referendum referred to in this rule shall be conducted as follows:

The Divisional Branch Council shall:

Determine the question to be submitted to the members and the form of the ballot paper.

Fix the times for the despatch and return of ballot papers and give the necessary instructions for printing of same.

Appoint a Divisional Branch Returning Officer and Divisional Branch Scrutineer to conduct the ballot.

In all other respects the referendum shall be held as nearly as practicable in the manner provided for the holding of elections of Divisional Branch Officers.

69 – SPECIAL RULES

(iA) Queensland

- (a) The Queensland Divisional Branch Management Committee shall convene at regular intervals no less often than each two years (but at earlier intervals should it be deemed necessary). A Divisional Branch Delegates Convention and consisting of delegates elected from Sub-Branched and jobs throughout the Divisional Branch and also comprised of members of the Divisional Branch Management Committee and full time officials of the Union.
- (b) The method of financing such Convention and the number of delegates that Sub-Branched and jobs may elect to attend such Convention, shall be determined by the Divisional Branch Management Committee from time to time.
- (c) A member nominating as a delegate to the Divisional Branch Delegate Convention must be financial at the time nominations are called.
- (d) Items for the Agenda for the Divisional Branch Delegate Convention shall be called for at least three (3) months before Convention assembles, and be in the hands of delegates to the Convention at least seven (7) days before Convention commences.
- (e) The Divisional Branch Delegates Convention may only recommend to the Divisional Branch Management Committee proposals for Rule and Policy changes.

(iB)

- (a) The purpose of this rule is to provide for:
 - (i) the merger of the QNTDB with the QBLDB to constitute on commencement day, the QNTDB; and
 - (ii) the conduct of the first election for the offices of the QNTDB in the year 2016 (“the 2016 elections”).
- (b) This rule shall apply notwithstanding any other provision of these Divisional Rules.
- (c) The provisions of this rule provide for the merger and shall take effect on, and from, either the 3rd January 2014 or the day after the General Manager of the Fair Work Commission certifies them, whichever is the later (“the commencement day”).
- (d) The QNTDB, and the members attached to it, shall comply with the provisions of this rule severally.
- (e) On, and from, the commencement day, the QNTDB and the QBLDB shall be merged to form the Queensland-Northern Territory Divisional Branch.
- (g) On commencement day the financial members of the QNTDB shall, despite rule 40(2)(ii)(C), be represented in the offices set out in column B by the persons holding the office set out in column A on the day immediately preceding the commencement day in respectively the QNTDB or the QBLDB:

A	B
Divisional Branch Secretary - QBLDB	Divisional Branch President Divisional Branch Council Member and Divisional Branch Executive member QNTDB Divisional Branch

Divisional Branch President - QBLDB	Divisional Branch Senior Vice President Divisional Branch Council Member and Divisional Branch Executive member QNTDB Divisional Branch
Divisional Branch Assistant Secretary - QBLDB	Divisional Branch Council Member and Divisional Branch Executive member QNTDB Divisional Branch
Divisional Branch Vice President - QBLDB	Divisional Branch Vice President and Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Trustees - QBLDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Treasurer - QBLDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Guardian - QBLDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Executive Members - QBLDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch President - QNTDB	Divisional Branch Senior Vice President Divisional Branch Council Member and Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Vice-President - QNTDB	Divisional Branch Vice President (Construction Workers Divisional Branch) Divisional Branch Council Member and Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Secretary - QNTDB	Divisional Branch Secretary Divisional Branch Council Member and Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Assistant Secretary (Plasterers) - QNTDB	Divisional Branch Assistant Secretary (Plasterers) Divisional Branch Council Member and Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Assistant Secretary (Painters) - QNTDB	Divisional Branch Assistant Secretary (Painters) Divisional Branch Council Member and Divisional Branch Executive Member QNTDB Divisional Branch

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Divisional Branch Assistant Secretary (General) - QNTDB	Divisional Branch Assistant Secretary (General) Divisional Branch Council Member and Divisional Branch Executive Member QNTDB Divisional Branch
Divisional Branch Executive Member - QNTDB	Divisional Branch Executive Member and Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Council Member (South East Queensland) - QNTDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Council Member (Regional Queensland) - QNTDB	Divisional Branch Council Member QNTDB Divisional Branch
Divisional Branch Council Member (Northern Territory) - QNTDB	Divisional Branch Council Member QNTDB Divisional Branch

and such persons as referred to in Column A herein shall, subject to these Divisional Rules, continue to hold the office in the merged Divisional Branch as described in Column B herein, until their successor takes office following the 2016 elections.

- (h) The officers of the Divisional Branch Council of the QNTDB are entitled to exercise votes as follows:
 - (i) each of the officers who were, on the day preceding the commencement day, members of the QNTDB Management Committee, shall be entitled to exercise collectively 73% of the total votes at a meeting of the Divisional Branch Council such votes to be exercised in equal proportions as between those officers in attendance at the meeting;
 - (ii) each of the officers who were, on the day preceding the commencement day, members of the QBLDB Executive, shall be entitled to exercise collectively 27% of the total votes at a meeting of the Divisional Branch Council such votes to be exercised in equal proportions as between those officers in attendance at the meeting;
- (i) The officers of the Divisional Branch Executive of the QNTDB are entitled to exercise votes as follows:
 - (i) each of the officers who were, on the day preceding the commencement day, members of the QNTDB Executive, shall be entitled to exercise collectively 73% of the total votes at a meeting of the Divisional Branch Executive such votes to be exercised in equal proportions as between those officers in attendance at the meeting;
 - (ii) each of the officers who were, on the day preceding the commencement day, members of the QBLDB Executive and who are by operation of these rules, members of the QNTDB Divisional Branch Executive on and from commencement day, shall be entitled to exercise collectively 27% of the total votes at a meeting of the Divisional Branch Executive such votes to be exercised in equal proportions as between those officers in attendance at the meeting.
- (j) A member of the QNTDB, who becomes a member on, or following, the commencement day is liable to pay subscriptions and fees in accordance with these Divisional Rules.
- (k) There shall be an inaugural meeting of the Divisional Branch Council of the QNTDB to be held within two (2) months of the commencement day.

- (l) There shall be an inaugural meeting of the Divisional Branch Executive of the QNTDB to be held within one (1) month of the commencement day.
- (m) Financiality for the purposes of these Divisional Rules is inclusive of the period of financial membership of the QBLDB contiguous with periods of financial membership with the QNTDB.
- (n) Financiality for the purposes of these Divisional Rules is inclusive of the period of financial membership of the QCWDB contiguous with periods of financial membership with the QNTDB.
- (o) At meetings of the Divisional Branch Council and Divisional Branch Executive of the QNTDB, quorum shall be as provided by rules 41(a) and 42(b) respectively provided however that for the purposes of quorum at least one (1) member must be a person who was a member of the QBLDB on the day immediately preceding amalgamation day and at least one (1) member must be a person who was a member of the QNTDB on the day immediately preceding amalgamation day.

(ii) Victoria-Tasmania - Divisional Branch Meetings

- (a) Victoria-Tasmania Divisional Branch meetings shall be held on the first Thursday in each month or as the Divisional Branch Management Committee may from time to time determine. Meeting shall be held at 540 Elizabeth Street, Melbourne, or at such places as may be decided from time to time by the Divisional Branch Meeting or the Divisional Branch Management Committee.
- (b) The Divisional Branch Management Committee shall, when deemed necessary, have power to call a special meeting, for at any time or at any place. The Divisional Branch President and Divisional Branch Secretary shall convene a special general meeting of the Divisional Branch members at the written request of twenty five (25) financial members.
- (c) Not less than twenty five (25) financial members of the Divisional Branch shall constitute a quorum for any meeting of the Divisional Branch otherwise the meeting shall lapse.
- (d) Notice of Divisional Branch meetings or of a special meeting of the Divisional Branch shall be given by advertisement in a daily paper at least two (2) days' prior to the time of meeting.
- (e) Divisional Branch meetings shall not commence earlier than 5 pm nor continue later than 7 pm unless a motion to extend the time be agreed to by a majority of the members present.
- (f) The Divisional Branch meetings shall be conducted in accordance with the standing orders and rules of debate prescribed in these rules.
- (g) The Divisional Branch meetings shall have powers of recommendation to the Divisional Branch Management Committee.

Note: This sub-rule is affected by the operation of Schedule 1.

(iii) South Australia - Divisional Branch Meetings

- (a) Divisional Branch meetings shall be held on the last Wednesday of each month or as the Divisional Branch Management Committee may from time to time determine. Meetings shall be held at 1/32 South Terrace, Adelaide, SA or at such places as may be decided by the Divisional Branch Management Committee.

Commented [LW74]: This is a reference to Schedule 1, Item 37 which updates references to branch name to include SA

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- (b) The Divisional Branch Management Committee shall, when deemed necessary, have power to call a special meeting, for any time at any place. The Divisional Branch President and Divisional Branch Secretary shall convene a special general meeting of the Divisional Branch members at the written request of 25 financial members.
- (c) Not less than ten financial members of the Divisional Branch, not including members of the Divisional Branch Management Committee, shall constitute a quorum for any meeting of the Divisional Branch, otherwise the meeting shall lapse.
- (d) Notice of any variations to the usual time or venue of Divisional Branch meetings or of any special meeting of the Divisional Branch shall be given in the Divisional Branch journal and/or local newspaper at least two (2) days prior to the time of the meetings.
- (e) Divisional Branch meetings shall not commence earlier than 5.00pm nor continue later than 7.00 pm unless a motion to extend the time be agreed to by a majority of members present.
- (f) The Divisional Branch meetings shall be conducted in accordance with the standing orders and rules of debate prescribed in these rules.
- (g) The Divisional Branch Management Committee shall have regard to decisions of the Divisional Branch meetings of members and in circumstances where any decision of the Divisional Branch Management Committee is contrary to that of a general meeting of members, the matter shall be referred to the Divisional Branch Council for determination and any determination so made shall be binding upon all members of the Divisional Branch.

Note: This sub-rule is affected by the operation of Schedule 1.

(iv) Western Australia - Divisional Branch Meetings

- (a) Divisional Branch meetings shall be held on the second Wednesday of each month and shall be held at the Union's office, or at such time and place as the Divisional Branch Management Committee may from time to time determine.
- (b) The Divisional Branch Management Committee shall, where deemed necessary, have power to call a special meeting, for any time or at any place. The Divisional Branch President and Divisional Branch Secretary shall convene a special general meeting of the Divisional Branch members at the written request of 25 financial members.
- (c) Not less than ten financial members of the Divisional Branch shall constitute a quorum for any meeting of the Divisional Branch, otherwise the meeting shall lapse.
- (d) Notice of any variations to the usual time or venue of Divisional Branch Meetings or of any special meeting of the Divisional Branch shall be given in the Divisional Branch journal and/or local newspaper at least two (2) days prior to the time of the meeting.
- (e) Divisional Branch Meetings shall not commence earlier than 5.00pm nor continue later than 7.00pm unless a motion to extend the time can be agreed to by a majority of members present.
- (f) The Divisional Branch Meetings shall be conducted in accordance with the standing orders and rules of debate prescribed in these rules.
- (g) The Divisional Branch Meetings shall have powers of recommendation to the Divisional Branch Management Committee.

Commented [LW75]: This is a reference to Schedule 1, Item 38 which changes ref to SA branch to references to SA Sub Branch

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Schedule 1 – Temporary Amalgamation of Victoria-Tasmania and South Australia Divisional Branches (2025 – 2029)

Operation of Scheme

1. This Schedule provide for the amalgamation of the Victoria-Tasmania Divisional Branch and the South Australia Divisional Branch.
2. The rules in this Schedule operate on and from 2 January 2025 or the declaration of the divisional elections scheduled to be held in 2024, whichever is later.
3. However, for the purpose of the Divisional Branch election scheduled for 2024, the offices to be elected are those prescribed by Rule 8 (Divisional Conference Delegates) and Rules 37, 38, 40, 42B and 42C (for officers of the Victoria-Tasmania-South Australia Divisional Branch) as amended by this Schedule;
4. To avoid doubt, for the purpose of the Divisional Branch election scheduled for 2024, the persons holding office as at the date the rule changes are certified by the Fair Work Commission, including offices that are abolished as a result of these rule changes, will continue to hold those offices until 2 January 2025 or the declaration of the Divisional Branch elections in 2024, whichever is the later.

Amended Rules

5. In Rule 4, insert new sub-rule (viiA) as follows:
 - (vii) Any person who, at the date this sub-rule takes effect, is a member of the Victoria-Tasmania Divisional Branch or the South Australia Branch shall be and become a member of the Victoria-Tasmania-South Australia Divisional Branch and shall have the same financial membership status within that Divisional Branch as they did within their former Divisional Branch at the time of their transfer. Any outstanding membership contributions owing to the Victoria-Tasmania Branch or the South Australia Divisional Branch as at the date this rule takes effect, shall become an amount owing to the Victoria-Tasmania-South Australian Divisional Branch. The period of membership of the Victoria-Tasmania-South Australia Divisional Branch is, for each person who becomes a member of the Victoria-Tasmania-South Australia Divisional Branch under this subrule, the same as that held by such members within the Victoria-Tasmania Divisional Branch of South Australia Divisional Branch, as the case may be.
6. In Rule 8(ii), in the fifth paragraph down, the words “The Divisional Branch Assistant Secretary of the South Australian Divisional Branch shall, by virtue of the holding of such office, be a member of the Divisional Conference.” are deleted and replaced as follows:

On and from 25 January 2025, or the declaration of the Divisional Branch elections scheduled to be held in 2024, whichever is the later, the South Australia Sub-Branch Secretary and the South Australia Sub-Branch President shall, by virtue of the holding of such office, be a member of the Divisional Conference.
7. In Rule 8(iii), the existing sub-rule is retained and the following new paragraph is added immediately after the existing words:

In the case of the Victoria-Tasmania-South Australia Branch, the calculation will be performed separately for members who would, but for the amalgamation provided

for in this Schedule 1, be members of the South Australia Branch and members who would, but for the amalgamation provided for in this Schedule 1, be members of the Victoria-Tasmania Branch. The number of delegates that the Victoria-Tasmania-South Australia Branch is entitled to elect will be the combined total of these calculations.

Only members who would, but for the amalgamation provided for in this Schedule 1, be members of the South Australia Branch will be entitled to vote for any delegates to which the Victoria-Tasmania-South Australia Branch is entitled by reason of the calculation performed in respect of members who would, but for the amalgamation provided for in this Schedule 1, be members of the South Australia Branch.

Only members who would, but for the amalgamation provided for in this Schedule 1, be members of the Victoria-Tasmania Branch will be entitled to vote for any delegates to which the Victoria-Tasmania-South Australia Branch is entitled by reason of the calculation performed in respect of members who would, but for the amalgamation provided for in this Schedule 1, be members of the Victoria-Tasmania Branch.

To avoid doubt, the entitlements under this sub-rule are in addition to any entitlement the South Australia Sub-Branch Secretary and/or South Australia Sub-Branch President may have to be a member of the Divisional Conference by operation of 8(ii) above.

8. In Rule 8(iv), the existing sub-rule is retained, and a new paragraph is added after the third paragraph, so that the sub-rule reads:

- (iv) For the purpose of this rule the formula which shall apply to determine the number of members of a Divisional Branch shall be to divide the amount of Divisional Branch income referred to in Rule 14 (i) received each of the three years prior to the elections by the amount of the annual contribution for that year. Those amounts to be totalled then divided by three to obtain the average number of members on which the Divisional Branch is entitled to elect delegates.

Provided that where the Divisional Branch has not existed for three (3) years the divisor shall be twice the number of half years up to a maximum of six (6) that the Divisional Branch has existed and the Divisional Branch income referred to shall be for the corresponding period.

Further provided that where a Divisional Branch has been the subject of changes in its structure or membership by virtue of a restructuring in whole or part, or an amalgamation, which restructuring or amalgamation has occurred less than three years prior to the elections referred to in the first paragraph of this sub-rule, the Divisional Branch shall be treated, for the purposes of this sub-rule, as if it came into existence on the last such change in structure or amalgamation, and the calculation shall be made in accordance with the immediately preceding proviso.

Notwithstanding anything else in this sub-rule, in the case of the Victoria-Tasmania-South Australia Divisional Branch, the calculation shall be performed in accordance with paragraph 1 of this rule, as though the South Australia Divisional Branch and the Victoria-Tasmania Divisional Branch continued to exist as separate Divisional Branches.

The Divisional Secretary and the Divisional Assistant Secretary/s shall have the same voting and other rights as other delegates to the Conference.

The existing elected officers of the Divisional Executive shall remain in office until the election of their successors.

9. In Rule 8(vii), the words “Victoria-Tasmania Divisional Branch” are replaced with “Victoria-Tasmania-South Australia Divisional Branch” wherever they appear so that the sub-rule reads as follows:

- (vii) Notwithstanding anything to the contrary in the preceding sub-rules, in the ~~case of the Victoria-Tasmania-South Australia Divisional Branch the~~ Divisional Branch Secretary and the ~~two~~ Divisional Branch Assistant Secretaries (~~FEDFA~~) shall, by virtue of being elected or otherwise holding such offices, automatically be among the Victoria-Tasmania-South Australia Divisional Branch delegates to Divisional Conference. These ex-officio positions shall occupy the first ~~two~~ ~~three~~ of the allocated number of delegates for the Victoria-Tasmania-South Australia Divisional Branch calculated in accordance with sub-rule (iii) hereof.

Commented [LW76]: See Item 17 in summary table

10. In Rule 9.1A, the existing sub-rule is retained and the following words are added at the end of the first paragraph:

On and from 2 January 2025, or the declaration of the Divisional Branch elections scheduled to be held in 2024, whichever is the later, the South Australia Sub-Branch Secretary shall, by virtue of the holding of such office, be a member of the Divisional Executive.

11. In Rule 9, sub-rule 15(l)(iii), the existing sub-rule is retained and a new section is added so that the rule as amended reads:

- (iii) Where a card vote is requested in accordance with (ii) above, each member of the Divisional Executive shall be entitled to exercise one vote provided however that any Divisional Branch Secretary shall be entitled to exercise additional ordinary votes based on the principle of one additional ordinary vote for each 2000 members or part thereof over and above the first 2000 members of the Divisional Branch from which the Divisional Branch Secretary derives.

Provided that, in the case of Victoria-Tasmania-South Australia Divisional Branch, the calculation shall be performed separately for members of the Division who reside or are employed in South Australia, and members of the Division who reside or are employed in Victoria and Tasmania and:

- (A) any additional ordinary votes which the Victoria-Tasmania-South Australia Divisional Branch Secretary is entitled to exercise by reason of the calculation performed in respect of members who reside or are employed in Victoria or Tasmania will be exercised by the Victoria-Tasmania-South Australia Divisional Branch Secretary; and
- (B) any additional ordinary votes which the Victoria-Tasmania-South Australia Divisional Branch Secretary is entitled to exercise by reason of the calculation performed in respect of members who reside or are employed in South Australia will be exercised by the South Australia Sub-Branch Secretary who will not, for the

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purposes of this rule, be entitled to exercise the vote to which he would otherwise be entitled by operation of this rule.

12. In Rule 18, delete sub-rule (b) and replace as follows:

- (b)
 - (i) Subject to rule (iii) below, from 2 January 2025 or the declaration of the divisional elections scheduled to be held in 2024, whichever is later, in Victoria, Tasmania and South Australia, the Divisional branch shall be known as the Construction and General Division, Victoria-Tasmania-South Australia Divisional Branch.
 - (ii) Further:
 - (A) In the State of Tasmania there shall be a sub-branch of the Victoria-Tasmania-South Australia Divisional Branch which will be known as the Construction and General Division, Victoria-Tasmania-South Australia Divisional Branch, Tasmania Sub-Branch; and
 - (B) In the State of South Australia there shall be a sub-branch of the Victoria-Tasmania-South Australia Divisional Branch which will be known as the Construction and General Division, Victoria-Tasmania-South Australia Divisional Branch, South Australia Sub-Branch.
 - (iii) From 2 January 2029 or the declaration of the divisional elections scheduled to be held in 2028, whichever is the later, the South Australia Divisional Branch shall be re-established as a separate Divisional branch unless the Divisional Executive determines otherwise.
 - (iv) The Construction and General Divisional Branch Secretary must do all things reasonably necessary to give effect to rule (iii) above including, if necessary, by doing all things reasonably necessary to amend these rules to give effect to the re-establishment of the South Australia Divisional Branch (unless the Divisional Executive has, pursuant to (iii) above, determined otherwise).

13. In Rule 28, sub-rule (b) is amended to delete the “, and”, add the words “and South Australia” after the word “Victoria” and append “-South Australia” to the word “Tasmania”, so that the sub-rule reads as follows:

- (b) In Tasmania, Victoria and South Australia, "The Construction and General Division, Victoria-Tasmania-South Australia Divisional Branch".

14. In Rule 29, insert a new third para as follows:

Further provided that notwithstanding the provisions of any other rule, all persons who are members of or apply for membership of the Division, who are residing or employed in Victoria, Tasmania or South Australia shall, on and from the date of certification of this rule, be and remain members of the Victoria-Tasmania-South Australia Divisional Branch.

15. In Rule 30(i)(b), add the following paragraph, after the first paragraph in sub-rule 30(b):

~~[105N-BWIU: Incorporates alterations of 7 March 2023 \[R2022/140\]](#)~~ ~~[105N-BWIU: Incorporates alterations of 7 March 2023 \[R2022/140\]](#)~~

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From 2 January 2025 or the declaration of the divisional elections scheduled to be held in 2024, whichever is later, the South Australia Sub-Branch Management Committee may deal with membership applications for prospective members who reside or are employed in the State of South Australia on behalf of the Victoria-Tasmania-South Australia Divisional Branch.

16. In Rule 30, sub-rule (iii) is amended to replace “Victoria-Tasmania” with “Victoria-Tasmania-South Australia” wherever it appears, including in the sub-heading. Sub-rule (iii)(a) is amended to add the words “who resides or works in either the State of Victoria or the State of Tasmania” after the words “each member”. The amended sub-rule reads:

(iii) Victoria-Tasmania-South Australia Divisional Branch

- (a) The record of members of the Victoria-Tasmania-South Australia Divisional Branch shall classify each member who resides or works in either the State of Victoria or the State of Tasmania into one or other of the following classifications:-

- (i) carpenter;
- (ii) labourer;
- (iii) stonemason;
- (iv) tilelayer;
- (v) painter;
- (vi) signwriter;
- (vii) bricklayer
- (viii) solid plasterer
- (ix) roof-tiler
- (xx) fibrous plasterer/fibrous plaster industry worker
- (xxi) crane operations
- (xxii) rigger/dogman
- (xxiii) plant and machine operations
- (xxiv) boiler attendant/engine driver
- (xxv) production worker (metal)
- (xxvi) concrete pump operations
- (xxvii) forklift/hoist operations
- (xxviii) driller
- (xxix) other

which shall be known as the member's designated classification.

- (b) A person applying for membership shall on the membership application form, state which one of the classifications set out in paragraph (a) the applicant for membership considers to be his or her appropriate classification.
- (c) In dealing with applications for membership the Victoria-Tasmania-South Australia Divisional Branch Management Committee shall determine each new member's designated classification.
- (d) The Victoria-Tasmania-South Australia Divisional Branch Management Committee may at any time change a member's designated classification provided that the Victoria-Tasmania-South Australia Divisional Branch Management Committee shall not change a member's designated classification unless -

- (i) the Victoria-Tasmania-South Australia Divisional Branch Management Committee has received from the member a request in writing for a change to the member's designated classification setting out the reasons for the request; or
- (ii) the member has been given a reasonable opportunity by the Victoria-Tasmania-South Australia Divisional Branch Management Committee to state in writing the reasons why he or she should retain his or her designated classification or have a different designated classification.

As soon as practicable after the Victoria-Tasmania-South Australia Divisional Branch Management Committee changes a member's designated classification in accordance with this paragraph the Victoria-Tasmania-South Australia Divisional Branch Management Committee shall cause the member to be notified in writing and alter the record of members of the Victoria-Tasmania-South Australia Divisional Branch accordingly.

- (e) The Victoria-Tasmania-South Australia Divisional Branch Management Committee shall determine the designated classification of an applicant for membership in accordance with paragraph (d) or a change to an existing member's designated classification in accordance with paragraph (e) by reference to:-
 - (i) the trade or other qualifications held by the applicant for membership or existing member;
 - (ii) the award classification of the applicant for membership or existing member, or his or her last award classification; and
 - (iii) the work performed by the applicant for membership or existing member, or the last work performed by him or her.
- (f) Where the Victoria-Tasmania-South Australia Divisional Branch Management Committee considers that it does not have sufficient information available to determine the designated classification of an applicant for membership or to change an existing member's designated classification it shall request that the member provide such further information as the Victoria-Tasmania-South Australia Divisional Branch Management Committee considers appropriate.
- (g) The designated classification of each member determined in accordance with this sub-rule:
 - (i) shall be solely for the purpose of determining the eligibility of each member to nominate for election to any office within the Victoria-Tasmania-South Australia Divisional Branch where election to such office is dependent upon the member falling into one or other of the classifications set out in paragraph (a) hereof;
 - (ii) shall be conclusive; and
 - (iii) shall bind the Divisional Branch Returning Officer.

- (h) For the purposes of determining length of membership of the Divisional Branch in rule 38(a) herein, previous financial membership of the VSBTU (PIWD) shall, where such member has obtained a clearance from the VSBTU in accordance with rule 9 of the National Rules of the CFMEU, count as financial membership of the Victorian Building Unions Divisional Branch.

17. ~~[Deleted] In Rule 34, sub-rule (a)(iii) is amended to delete “, Victoria-Tasmania Divisional Branch”, and a new sub-rule (iv) is inserted, so that sub-rule (a)(iii) and new sub-rule (a)(iv) read as follows:~~

Commented [LW77]: See item 5 in summary table

~~(iii) In the case of the New South Wales Divisional Branch and the ACT Divisional Branch the forty (40) years mentioned in sub-rule (ii) shall be read as thirty (30) years.~~

~~(iv) In the case of the Victoria-Tasmania-South Australia Divisional Branch, the forty (40) years mentioned in sub-rule (ii) shall be read as thirty (30) years for members residing or employed in Victoria and Tasmania (but not South Australia).~~

18. In Rule 37(v), sub-rule (b) is deleted and replaced with the following:

- (b) On and from 2 January 2025 or the declaration of the divisional branch election in 2024, whichever is later, the officers of the Victoria-Tasmania-South Australia Divisional Branch shall be the Divisional Branch President, a Divisional Branch Vice-President (which position shall be honorary), the Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, a Divisional Branch Senior Vice-President (~~PEDEA~~) (which shall be a paid, full-time position), the members of the Divisional Branch Management Committee, the members of the Divisional Branch Tasmania Sub-Branch Management Committee referred to in Rule 42B herein the members of the Divisional Branch South Australia Sub-Branch Management Committee referred to in Rule 42C herein, Divisional Branch Delegates to Divisional Conference, and such number of Organisers as may be decided by the Divisional Branch Management Committee.

Commented [LW78]: See item 22 in summary table

19. In Rule 37(vi), the sub-rule is deleted, and reads as follows:

- (vi) Deleted.

20. In Rule 38, sub-rule (a)(v) is amended as follows:

Commented [LW79]: See item 26D in summary table

- (v) Except in the Divisional Branches in the Australian Capital Territory, Queensland, and Victoria-Tasmania-South Australia, a member who nominates for Organiser shall not be entitled to nominate for Divisional Branch Council or Divisional Branch Management Committee.

21. In Rule 38(dd), the sub-rule is amended to append “-South Australia” to the word “Tasmania” so that the sub-rule reads:

- (dd) In the Victoria-Tasmania-South Australia Divisional Branch only, where a casual or extraordinary vacancy occurs in a Zone Delegate's position which has the effect of reducing the number of tradesperson or labourer delegates below the minimum number of tradesperson or labourer delegates for that zone, such vacancy shall be filled by a member with the same designated

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42A – DIVISIONAL BRANCH EXECUTIVE COMMITTEE (VICTORIA-TASMANIA-SOUTH AUSTRALIA)

classification in accordance with sub-rule 30 (iii) as the Zone Delegate who previously held the position.

22. In Rule 40(2)(v)(a), the sub-rule is amended so that it reads:

(2)

(v)(a) For the Divisional Branch elections scheduled for 2024 and onwards. The members of the Divisional Branch Council of the Victoria-Tasmania-South Australia Divisional Branch shall consist of the members of the Divisional Branch Management Committee, four of the members of the Tasmania Sub-Branch Management Committee referred to in Rule 42B (to be determined by the Sub-Branch Management Committee at its first meeting after the declaration of each branch election), and four of the members of the South Australia Sub-Branch Management Committee referred to in Rule 42C (to be determined by the Sub-Branch Management Committee at its first meeting after the declaration of each branch election), and one Zone Delegates for each of the zones identified in (b) below. elected in accordance with the following:

Commented [LW80]: See item 2 in summary table

23. In Rule 40(2)(vi), the sub-rule is deleted, and reads as follows:

(vi) Deleted.

24. In Rule 42, sub-rule (a)(v) is amended append the words “-South Australia” to the word “Tasmania”, so that the sub-rule reads:

(v) The members of the Divisional Branch Management Committee of the Victoria-Tasmania-South Australia Divisional Branch shall consist of the Divisional Branch President, Divisional Branch Secretary, two (2) Divisional Branch Assistant Secretaries, the Divisional Branch Senior Vice-President (~~FEDFA~~), the Divisional Branch Vice-President, the Sub-Branch Secretary and Sub-Branch President referred to in Rule 42B(b) herein and 23 others consisting of 6 carpenters, 6 builders labourers, 2 painters/signwriters, 1 fibrous plasterer/fibrous plaster industry member, 6 others elected from the classifications of crane operations, rigger/dogman, plant and machine operators, boiler attendant/engine driver, production worker (metal), concrete pump operations, forklift operations, hoist operations and drilling/piling, and 2 other members elected from bricklayers, roof-tilers, stone masons, wall and floor tilers and solid plasterers, provided that at least one of whom shall be a bricklayer.

Commented [LW81]: See item 23 in summary table

25. In Rule 42(a)(vi), the sub-rule is deleted, and reads as follows:

(vi) Deleted.

26. In Rule 42A, the heading and sub-rule (i) are amended as follows:

42A – DIVISIONAL BRANCH EXECUTIVE COMMITTEE (VICTORIA-TASMANIA-SOUTH AUSTRALIA)

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42C – SOUTH AUSTRALIA SUB-BRANCH MANAGEMENT COMMITTEE

- (i) The Divisional Branch Executive Committee of the Victoria-Tasmania Divisional Branch shall consist of the Divisional Branch President, the Divisional Branch Senior Vice-President, the Divisional Branch Vice-President, the Divisional Branch Secretary and the two Divisional Branch Assistant Secretaries.

27. In Rule 42B, sub-rules (a), (b), (c) and (d) are amended so that “-South Australia” is appended to the word “Tasmania” in each place “Tasmania” appears; so that the sub-rules reads:

42B – TASMANIA SUB-BRANCH MANAGEMENT COMMITTEE (VICTORIA-TASMANIA-SOUTH AUSTRALIA DIVISIONAL BRANCH)

- (a) There shall be a Tasmania Sub-Branch Management Committee of the Victoria-Tasmania-South Australia Divisional Sub-Branch.
- (b) The Tasmania Sub-Branch Management Committee of the Victoria-Tasmania-South Australia Divisional Branch shall consist of the Sub-Branch Secretary, the Sub-Branch President and six (6) other persons all of whom shall be elected by and from members of the Victoria-Tasmania-South Australia Divisional Branch who are residing or employed in the State of Tasmania.
- (c) The Victoria-Tasmania-South Australia Divisional Branch Council and Divisional Branch Management Committee shall have the care, control superintendence, management and administration in all respects of the affairs, business and funds and property of the Victoria-Tasmania-South Australia Divisional Branch.
- (d) Provided however that the Sub-Branch Management Committee shall have the power to make recommendations to the Divisional Branch Council and Divisional Branch Management Committee in respect of the administration, or matters affecting the interests of, the Divisional Branch in the State of Tasmania only.

27A. New Rule 42C is inserted as follows:

42C – SOUTH AUSTRALIA SUB-BRANCH MANAGEMENT COMMITTEE

- (a) On and from 2 January 2025 or the declaration of the divisional branch elections scheduled for 2024, whichever is the later, there shall be a South Australia Sub-Branch Management Committee of the Victoria-Tasmania-South Australia Divisional Branch.
- (b) Members of the South Australia Sub-Branch Management Committee of the Victoria-Tasmania-South Australia Divisional Branch shall consist of the Sub-Branch Secretary, the Sub-Branch President and six (6) other persons all of whom shall be elected by and from members of the Victoria-Tasmania-South Australia Divisional Branch who are residing or employed in the State of South Australia.
- (c) The Victoria-Tasmania-South Australia Divisional Branch Council and Divisional Branch Management Committee shall have the care, control superintendence, management and administration in all respects of the affairs, business and funds and property of the Victoria-Tasmania-South Australia Divisional Branch.
- (d) The South Australia Sub-Branch Management Committee shall have the power to make recommendations to the Divisional Branch Council and

Divisional Branch Management Committee in respect of the administration, or matters affecting the interests of, the Divisional Branch in the State of Tasmania only.

- (e) The Secretary of the South Australia Sub-Branch Management Committee shall have such duties and powers as are determined by the Victoria-Tasmania-South Australia Divisional Branch Management Committee from time to time, along with any duties delegated under Rule 46(l).

28. In rule 43(b), sub-rule (ii) is amended to append “-South Australia” to the word “Tasmania” so that the sub-rule reads:

- (ii) In the New South Wales Divisional Branch and the Victoria-Tasmania-South Australia Divisional Branch, the Divisional Branch President shall be employed in a full-time capacity.

29. In rule 44, sub-rule (i) is deleted, so that the sub-rule reads:

- (i) [Deleted].

30. In rule 44, sub-rule (ii) is deleted, so that the sub-rule reads:

- (ii) [Deleted].

31. In rule 44, sub-rule (iii) ~~and (iv) are is~~ amended to append “-South Australia” to the word “Tasmania” in each place in which it appears so that the rules read:

Commented [LW82]: See item 24 in summary table

- (iii) In Victoria-Tasmania-South Australia the Divisional Branch Vice-Presidents shall have such duties and responsibilities as may be determined from time to time by the Divisional Branch Council or the Divisional Branch Management Committee.

~~(iv) In Victoria Tasmania South Australia the Divisional Branch Vice President (FEDFA) shall, in addition to any other duties and responsibilities as may be determined from time to time by Divisional Branch Council or the Divisional Branch Management Committee and which may be applicable to the Divisional Branch Vice-Presidents generally, carry out such other functions, and exercise such other powers, in relation to the FEDFA Section of the Branch (where the Divisional Branch Council has created any such Section), as may be determined by the Divisional Branch Council or Divisional Branch Management Committee from time to time.~~

32. In rule 45, sub-rule (a) is amended to delete the words “Except in the case of the South Australia Divisional Branch the” and insert in their place “The”; and sub-rule (b) is deleted, so that rule 45 reads:

- (a) The Divisional Branch Management Committee shall elect from among themselves, three trustees. The election shall be conducted in accordance with Rule 42(q). Provided however that there shall be no trustees in the New South Wales Divisional Branch.

On a written authority signed by the Divisional Branch President and the Divisional Branch Secretary any two of the three Divisional Branch Trustees

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48B – DUTIES OF DIVISIONAL BRANCH SENIOR VICE-PRESIDENT (FEDFA) (VICTORIA-TASMANIA-SOUTH AUSTRALIA)

shall sign cheques for such sums as may be voted by the Divisional Branch Council or Divisional Branch Management Committee in accordance with these Rules. Such cheques to be counter signed by the designated Divisional Branch Assistant Secretary. The designated Divisional Branch Assistant Secretary will be determined by the State Management Committee or equivalent body.

In the New South Wales Divisional Branch either the Divisional Branch Secretary and the Divisional Branch President, or the Divisional Branch Secretary or the Divisional Branch President and such other person as is nominated by the Divisional Branch Management Committee from time to time, shall sign cheques for such sums as may be authorised in accordance with these rules. Provided however that the nomination referred to herein may be on such terms as determined by the Divisional Branch Management Committee and may be revoked at any time. Further provided that all expenditure of the Divisional Branch shall be placed before the Divisional Branch Management Committee for consideration and ratification.

(b) Deleted.

33. In rule 46, new sub-rule (l) is inserted as follows:

(l) The Divisional Branch Secretary of the Victoria-Tasmania-South Australia Divisional Branch shall have the power to delegate to the Secretary of the South Australia Sub-Branch Management Committee, some or all of the duties of the Divisional Branch Secretary in connection with, and only in connection with, members of the Victoria-Tasmania-South Australia Divisional Branch residing or working in South Australia. A delegation under this sub-rule may be revoked by the Divisional Branch Secretary of the Victoria-Tasmania-South Australia Divisional Branch at any time.

34. In rule 48A, sub-rule (a) is deleted, so that the sub-rule reads:

(a) [Deleted].

35. In rule 48B, the heading is amended to append “-SOUTH AUSTRALIA” to the word “TASMANIA” and in sub-rule 1 “-South Australia” is appended to the word “Tasmania” so that the heading and sub-rule 1 read as follows:

**48B – DUTIES OF DIVISIONAL BRANCH SENIOR VICE-PRESIDENT
(FEDFA) (VICTORIA-TASMANIA-SOUTH AUSTRALIA)**

(1) This rule applies only in relation to the Victoria-Tasmania-South Australia Divisional Branch.

...

36. In rule 48C, sub-rule (1) is amended to append “-South Australia” to the word “Tasmania” so that the sub-rule reads:

(1) This rule applies only in relation to the Victoria-Tasmania-South Australia Divisional Branch.

Commented [LW83]: See item 25 in summary table

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48B – DUTIES OF DIVISIONAL BRANCH SENIOR VICE-PRESIDENT (FEDFA) (VICTORIA-TASMANIA-SOUTH AUSTRALIA)

37. In rule 69, sub-rule (ii), “-South Australia” is appended to the word “Tasmania” in the sub-heading and in sub-rule (ii)(a), so that the heading and subrule (ii)(a) read:

(ii) Victoria-Tasmania-South Australia - Divisional Branch Meetings

- (a) Victoria-Tasmania-South Australia Divisional Branch meetings shall be held on the first Thursday in each month or as the Divisional Branch Management Committee may from time to time determine. Meeting shall be held at 540 Elizabeth Street, Melbourne, or at such places as may be decided from time to time by the Divisional Branch Meeting or the Divisional Branch Management Committee.

38. In rule 69 sub-rule (iii), the sub-heading is amended so that “Divisional Branch” is deleted and replaced with “Sub-Branch”. Sub-rules (iii)(a), (b), (c), (d), (e), (f) are amended so that “Divisional Branch” is replaced with “Sub-Branch” in each place in which it appears. Sub-rule (g) is deleted and replaced with “The Victoria-Tasmania-South Australia Divisional Branch Management Committee shall have regard to decisions of the Sub-Branch meetings of members”.

(iii) South Australia - Sub-Branch Meetings

- (a) Sub-Branch meetings shall be held on the last Wednesday of each month or as the Sub-Branch Management Committee may from time to time determine. Meetings shall be held at 1/32 South Terrace, Adelaide, SA or at such places as may be decided by the Sub-Branch Management Committee.
- (b) The Sub-Branch Management Committee shall, when deemed necessary, have power to call a special meeting, for any time at any place. The Sub-Branch President and Sub-Branch Secretary shall convene a special general meeting of the Sub-Branch members at the written request of 25 financial members.
- (c) Not less than ten financial members of the Sub-Branch, not including members of the Sub-Branch Management Committee, shall constitute a quorum for any meeting of the Sub-Branch, otherwise the meeting shall lapse.
- (d) Notice of any variations to the usual time or venue of Sub-Branch meetings or of any special meeting of the Sub-Branch shall be given in the Sub-Branch journal and/or local newspaper at least two (2) days prior to the time of the meetings.
- (e) Sub-Branch meetings shall not commence earlier than 5.00pm nor continue later than 7.00 pm unless a motion to extend the time be agreed to by a majority of members present.
- (f) The Sub-Branch meetings shall be conducted in accordance with the standing orders and rules of debate prescribed in these rules.
- (g) The Victoria-Tasmania-South Australia Divisional Branch Management Committee shall have regard to decisions of the Sub-Branch meetings of members.

END OF RULES

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