

13A.7 Scrutineer

- 13A.7.1 Each Division, or in the case of the Communications Division the respective Divisional Group or candidate shall have the right to appoint scrutineers who shall be a National Councillor of the respective Division or Divisional Group, to represent them at the ballot.
- 13A.7.2 Scrutineers shall have the right to inspect ballot papers but shall not handle ballot papers.
- 13A.7.3 Scrutineers shall accept responsibility for being present during the times fixed by the Returning Officer for the counting of the ballot, and counting of the ballot shall not be delayed by the absence of any or all of the scrutineers.

13A.8 Absent Voting

A National Councillor can appoint a proxy who is appointed or elected in accordance with rule 7.15 "National Council Proxies and Alternate National Councillors" to vote in his/her absence.

13A.9 Unfinancial Divisions

In the event that any Division is unfinancial in accordance with decisions of National Council, the National Councillors from that division shall not be entitled to participate in the elections prescribed by this rule.

13A.10 Declaration of election

As soon as the counting of each ballot is concluded the Returning Officer shall declare the result forthwith and the new office holders shall be installed immediately.

13A.11 Election Irregularities

Any accidental or unavoidable omission or error in the conduct of this rule shall not invalidate an election if such omission or error appears not to have affected the result of the election.

14 - NATIONAL COUNCIL RETURNING OFFICER

14.1 Appointment of Returning Officers

In each election year immediately following acceptance by the Annual Meeting of National Council of Councillors' credentials, National Council shall appoint a National Returning Officer and Deputy Returning Officers in each State who will hold office until the next election. Wherever possible Deputy Returning Officers shall be a Returning Officer appointed under Divisional rules.

14.2 Eligibility to be a Returning Officer

A Returning Officer shall not be the holder of any office in, or an employee of, the union or a branch, section or division of the union.

15 - CASUAL VACANCIES

15.1 Casual Vacancies on National Council

With the exception of the National Executive Officers, where a casual vacancy occurs on National Council it shall be filled in accordance with the relevant Divisional rule relating to casual vacancies.

15.2 Casual Vacancy on the National Executive

15.2.1 Where a casual vacancy occurs on the National Executive, it shall be filled by an election conducted by postal ballot of the relevant National Councillors of the Division or Divisional Group in which the vacancy occurs.

15.3 Casual Vacancies - National Executive Officers

15.2.1 If a National Executive Officer's position becomes vacant the vacancy shall be filled in accordance with the rules relating to the election of those offices. The election shall take place at the next National Council meeting which may take place by correspondence in accordance with rule 7.7 "National Decisions by Correspondence".

As the election must be by secret ballot, the National Council meeting may not be a telephone or video conference. The position must be filled within 3 months of the vacancy occurring.

15.2.2 If the office of National President becomes vacant the Vice President shall assume the Office until the next election to take place in accordance with rule 15.2.1.

15.2.3 If the office of National Secretary becomes vacant the Assistant National Secretary shall assume the Office until the next election to take place in accordance with rule 15.2.1.

16 - CONTROL BY THE MEMBERS OF NATIONAL COUNCIL & NATIONAL EXECUTIVE OFFICERS

16.1 Calling of Ballots of Members

A ballot of the whole or part of the financial membership in relation to any matter covered by Section A of these rules, must be called where:

16.1.1 the National Council so determines; or

16.1.2 the National Secretary receives a petition requesting a ballot signed by not less than 5% of the financial membership of the union; or

16.1.3 the National Secretary receives a written request signed by not less than six Divisional Branches authorised by a specially summoned:

16.1.3.1 Divisional Branch State Council meeting in the case of the Electrical Division; or

16.1.3.2 Branch meeting in the case of the Plumbing Division; or

16.1.3.3 Branch Committee of Management meeting in the case of the Postal and Telecommunications Group of the Communications Division; or

16.1.3.4 Branch General meeting in the case of the Telecommunications and Services Group of the Communications Division.

16.2 Resolution, Petition or Request must contain Ballot Question

16.2.1 A resolution for a ballot under this rule shall set out the question(s) to be put to ballot.

16.2.2 A petition or written request for a ballot under this rule shall set out the question(s) to be put to ballot, be addressed to the National Secretary and be delivered to the registered National Office.

16.3 Ballot Process

16.3.1 The ballot referred to in this rule shall, unless otherwise determined by the Returning Officer, be conducted and finalised within 2 months of the request for a ballot being received by the National Secretary. The ballot shall be conducted as follows.

16.3.2 The National Executive Officers shall draft the form of the ballot paper to be submitted to National Council for their approval adopting the text of any resolution or question submitted by petition or written request. Supportive material for either side can be included in the envelope with the ballot paper. The suitability of such material will be determined by the Returning Officer.

16.3.3 The National Secretary shall notify the Returning Officer within 14 days of a request for a ballot.

16.3.4 The National Secretary shall, upon request of the Returning Officer, supply to him/her a list of members eligible to vote.

16.3.5 The National Secretary and Divisional Branch Secretaries shall allow the Returning Officer access to whatever membership records the Returning Officer may consider necessary to verify the membership list and to determine the roll of voters.

16.3.6 The Returning Officer shall cause to be posted to each member eligible to vote, a ballot paper, which is to be initialled by the Returning Officer, together with a replied paid envelope, and such instructions and directions as may be deemed necessary for the conduct of the ballot.

16.3.7 The ballot shall be a secret postal ballot.

16.3.8 On notification of the outcome of the ballot National Council shall as soon as possible give effect to the decision.

16.3.9 The National Secretary shall forward the result of the ballot and the report provided by the Returning Officer, to each Divisional Secretary without delay.

16.4 Eligible Voters in a Ballot

All members who are financial in accordance with the Divisional rules shall be eligible to vote.

17 - EXECUTION OF AGREEMENTS & DOCUMENTS

17.1 Responsibility for the Execution of Documents

17.1.1 Subject to the endorsement of the National Council, any agreement may be made, and/or document entered into, executed, varied and/or cancelled by the National Secretary or the National President on any matter covered by section A of these rules, after consultation and with the other National Executive Officers, or person acting in their capacity.

17.1.2 Any agreement which directly affects the employment of members of only one Division may be executed by that Division in accordance with its rules.

17.1.3 Any agreement which directly affects the employment of members of only one Divisional Branch may be executed by that Division in accordance with its rules.

17.2 Agreements with State Registered Unions

The Union, where permitted to do so by the Industrial Relations Act or any other law, is authorised to enter into an agreement with a state registered union to the effect that the members of the state registered union concerned who are otherwise ineligible to join the union are eligible to become members of the union under the agreement.

The Union is also authorised to terminate such an agreement in conjunction with the state registered union concerned.

17.3 Seal of the Union

There shall be a common seal of the Union which shall be kept at the registered office of the Union. The seal shall be placed on any instrument requiring a seal.

18 - NOTIFICATION OF INDUSTRIAL DISPUTES

18.1 Processing of Litigation on behalf of the Union.

Applications, notifications, references, appeals or any other matter or proceeding related to litigation in the Australian Industrial Relations Commission, the Federal Court or other tribunal or court appropriate in the circumstances, may be lodged, or any process may be initiated and advanced, on behalf of the union by the National Council, National Secretary or a National Executive Officer after consultation with the other National Executive Officers, or any other person authorised by the National Council to do so in accordance with the powers of National Council.

18.2 Proceedings Initiated by Division

A Division may institute proceedings in accordance with the rules of that Division.

19 - PROPERTY AND FUNDS OF THE UNION

19.1 Union Funds

19.1.1 All funds and property held by the National Council and/or the Divisions are the funds and property of the Union.

19.1.2 The funds and property of the Union shall be in the care, custody and control of the Division which holds such funds and property pursuant to the Divisional rules and shall be controlled and administered in accordance with the rules of that Division.

19.1.3 The funds and property of the Union shall be invested in the name of the Union. In the case of Divisions and the Divisional Branches it shall be invested in the name of the Union with the additional words containing the name of the Division and/or the Divisional Branch.

19.2 National Council Funding

19.2.1 Each Division shall pay to the National Council, on a basis proportionate to the respective financial membership of each Division, an amount that is determined by National Council.

19.2.2 All money received by the National Council shall be paid to the credit of the Union into a current account with a bank or financial institution approved by National Council. No funds may be withdrawn without the signed authorisation of two National Executive Officers who shall not be from the same Division.

19.2.3 The funds of the National Council shall be invested and expended only in accordance with the directions and/or decision of the National Council.

19.2.4 Subject to 19.3.1, payments made in furtherance of any of the objects of the Union shall be deemed to be part of the ordinary expenses of the Union.

19.3 Loans, Grants and Donations

19.3.1 Notwithstanding any other provisions of this rule, a loan, grant or donation exceeding \$1,000 shall not be made by the National Council unless the National Council has approved it and is satisfied that:

19.3.1.1 the making of the loan, grant or donation is in accordance with the other rules of the union;

19.3.1.2 in the case of 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.

20 - NATIONAL COUNCIL FINANCIAL REPORTS, AUDIT & REVIEW BY MEMBERS

20.1 Accounts to be Audited

The National Council shall appoint an auditor, who shall be a Chartered Accountant or registered Public Accountant, who shall audit the accounts of National Council yearly and see that the accounts are correctly kept. The auditor shall have the power at any time to call for the books, papers and other financial documents belonging to the Union. He or she shall make a full report of each audit to the National Council and sign the necessary papers certifying to the audit and the financial position of the Union.

20.2 Financial Year and Audit

The financial year of National Council shall terminate on 31 March each year and an audited balance sheet shall be presented to the Annual Meeting of National Council by the National Secretary.

20.3 Circulation of Accounts to Members

Once the Auditor has signed off on the financial reports for the financial year and those reports have been forwarded and presented to the National Council, they shall be circulated to members via the union magazine, by correspondence or by email, on the union's website or by some other method where all members have access to and are able to view the financial reports.

20.4 General Meetings of Members to Consider Financial Reports

20.4.1 A general meeting of members of the Union may be requested for the purpose of considering the auditor's report, the general purpose report and the operating report of the Union.

20.4.2 The general meeting must be requested in writing, addressed and delivered to the National Secretary and must be signed by a number of members who comprise at least 5% of the membership of the Union.

20.4.3 Upon receiving a valid request for a general meeting, the National Secretary must give all members of the Union not less than 14 days notice of the date, time, place and reason for calling the general meeting of members.

20.4.4 The notice referred to in subrule 20.4.3 may be given by correspondence delivered to the member's last known address, or by email to the member's email address or by publishing a note in the Union's magazine or by notification on the Union's website.

20.4.5 At the general meeting the National President shall preside. All members of the Union shall be entitled to attend and vote. The National Secretary may use the occasion of the meeting to add matters to the agenda other than the auditor's report, the general purpose report and the operating report of the Union. However, these three reports must be the first order of business of the meeting.

24 - SUSPENSION OR REMOVAL OF OFFICERS

20.4.6 For the convenience of facilitating member attendance, video conferencing may be used for meetings. Meetings may also be held in each State or other geographic area to facilitate member attendance.

20.4.7 Not less than 5% of the membership of the Union shall form a quorum. The question of adoption or otherwise of each of the three reports shall be decided by a majority of those members present at the meeting. In the event of an even vote, the Chair shall have the casting vote.

21 - NEW RULES & ALTERATIONS TO RULES

21.1 Except as provided in this rule, the National Council shall have the exclusive power to make, amend or rescind the rules of the Union.

21.2 Divisional rules (set out in sections B, C and D) shall not be made, amended or rescinded by the National Council without the prior approval of the appropriate Divisional Council.

21.3 Rule 28.2 "Dissolution of a Division" may not be amended or rescinded without an affirmative ballot of members of the appropriate Division.

21.4 Any amendment or rescission of rules 6.1.4 relating to the "Establishment of Divisions", 6.2 "Autonomy of Divisions", 7.17 "Carrying of National Council Resolutions" and this rule (rule 21) shall be of no effect unless ratified by each of the Divisional Councils.

22 - REGISTERED OFFICER

22.1 The National Secretary shall be the registered officer of the Union and shall be authorised to sue for all purposes in any proceeding or matter.

22.2 The National Secretary may delegate to some other person or persons power to sue for all purposes.

22.3 Where required by law, the Secretary of a Divisional Branch shall be the person to sue in respect of any matters covered by that law.

23 - REGISTER OF MEMBERS

23.1 Register of Members

Each Division/Divisional Group shall, in accordance with the rules of the Division, keep a membership register and shall supply a copy of the register or part thereof to the National Secretary or National President when requested pursuant to the Industrial Relations Act 1988.

24 - SUSPENSION OR REMOVAL OF OFFICERS

24.1 Suspension from Office

The National Council may suspend any National officer who, in their opinion, is guilty of an offence under rule 24.2. The term of such a suspension shall not exceed one month after which, if the matter has not been dealt with under rule 25 "Offences, Charges and Penalties", the officer shall be reinstated.

25 - OFFENCES, CHARGES AND PENALTIES

24.2 Removal from Office

24.2.1 National Officers can only be removed from that office where they have been found guilty under rule 25 "Offences, Charges and Penalties" of:

24.2.1.1 misappropriation of the funds of the union;

24.2.1.2 a substantial breach of the rules of the union; or

24.2.1.3 gross misbehaviour or gross neglect of duty;

or have ceased to be eligible to hold office.

24.2.2 To be eligible to hold national office an officer must continue to be eligible to stand for that office.

24.2.3 The National Council shall, where it determines that a National Officer has ceased to be eligible to hold office, declare the position vacant, and direct that the vacancy be filled in accordance with rules 12 "Election of National Executive Officers", 13 "Election of the National Councillors" or 15 "Casual Vacancies" as it deems appropriate.

24.3 Ineligibility to Hold Office

Once an officer has been removed from a national office he/she shall be ineligible for holding any further national office in the union until the next election. A vacancy created as a consequence shall be filled in accordance with rules 12 "Election of National Executive Officers", 13 "Election of the National Councillors" or 15 "Casual Vacancies" as appropriate.

25 - OFFENCES, CHARGES AND PENALTIES

25.1 Charges by Members

25.1.1 Matters in relation to offences and penalties confined to a Division shall be dealt with in accordance with the Divisional rules.

25.1.2 In relation to any matter covered by Section A of these rules, any member may charge any member including a National Officer with:

25.1.2.1 failing to observe any rule of the Union;

25.1.2.2 knowingly failing to observe any resolution of the National Council;

25.1.2.3 working in contravention of an award, order or agreement by which the Union is bound;

25.1.2.4 wrongfully purporting to occupy any National office or position or an entitlement to represent the National Council in any capacity (to which charge it shall be a defence that the member believed bona fide and on reasonable grounds that he/she was entitled to do so);

- 25.1.2.5 giving false or misleading information to, obstructing or failing to assist on reasonable request, an officer of the Union;
- 25.1.2.6 committing any fraudulent or unlawful act in relation to the funds or property of the Union or in relation to any election held under the rules;
- 25.1.2.7 aiding or encouraging any other member in any offence under this rule.

25.2 Processing of Charges

- 25.2.1 Any charge shall be made in writing to the National Secretary and be accompanied by twenty five dollars (\$25) which subject to rule 25.6 "Fivolous Charges" shall be refundable.
- 25.2.2 The National Secretary shall summon the member charged to appear before the next meeting of the National Council. The summons shall be in writing and set out the time and place of the hearing, the name of the person laying the charge and the substance of the charge.
- 25.2.3 The member charged shall be given reasonable notice of the summons, having regard to all the circumstances. If summoned to attend a place more than 80 kilometres from his/her address, as shown in the books of the Union, the National Council shall supply his/her return fare.
- 25.2.4 If the member charged requests it, the National Secretary (or person acting on his/her behalf) shall supply further particulars as may be necessary to indicate the precise nature of the charge.
- 25.2.5 At the appointed time and place or at a time and place to which the meeting is adjourned, the charge shall be investigated whether or not the member is in attendance unless a satisfactory explanation of his/her absence has been received.
- 25.2.6 Both the member charged and the member bringing the charge shall be given proper opportunity to present their cases.

25.3 Power to Hear Charges

The National Council shall hear charges under this rule.

25.4 Finding of National Council

- 25.4.1 If the National Council finds the member guilty, it shall refer the matter to those members of the National Council representing the Division to which the offending member is attached, who shall meet forthwith to consider the matter of imposing a penalty. After giving the member charged an opportunity to raise any matter relevant to the question of penalty the said members of the Divisional Council or Divisional Executive may do one or more of the following -
 - 25.4.1.1 Impose no penalty;
 - 25.4.1.2 Impose a fine not exceeding \$500;

25.4.1.3 Suspend the guilty person from membership or deprive him/her of any right or benefit of membership for a specified period, or until the happening of any specified event or until the performance of any specified act. Suspension from membership shall deprive a member of the benefits of membership, but shall not relieve him/her of the obligations of membership and shall not exceed six months for any offence. If the specified event has not occurred or the specified act has not been done at the expiration of six months from the date of suspension, the suspension shall then lapse;

25.4.1.4 Remove the guilty person from any office or position;

25.4.1.5 Expel the guilty person from the Union.

25.5 Appeals

There shall be no appeal from the decision of National Council.

25.6 Frivolous Charges

If upon investigation the charge is found to be frivolous the charge fee of \$25.00 shall be forfeited by way of fine upon the member who laid the charge and shall be paid into the funds of the Union.

25.7 Payment of Fines

Where a member is fined in accordance with this rule this fine shall be paid within 14 days of being notified of the imposition of the fine, unless an alternative arrangement is made with the National Council or National Executive Officers.

26 - RULES OF DEBATE - NATIONAL COUNCIL

26.1 Motions and Amendments

26.1.1 No discussion shall take place on any motion, amendment or amendments unless it has been proposed and seconded.

26.1.2 Any number of amendments may be proposed and discussed simultaneously with the original motion. At the close of debate amendments shall be put in the order they have been moved.

26.1.3 The Chairperson shall take a vote on a duly proposed motion unless some member rises to oppose it or to propose an amendment.

26.1.4 No amendment shall be received by the Chairperson which is a direct negative to the motion tabled, or which does not relate to the substance of the tabled motion.

26.2 Speaking to the Motion

26.2.1 A member shall not speak more than once on any motion, except in answer to an inquiry or by permission of the Chairperson to make personal explanation or in reply to his/her original motion.

26.2.2 No speaker shall be allowed to speak for more than five minutes unless granted an extension of time by resolution of the meeting. The mover of the original motion shall be allowed five minutes in reply.

26.2.3 The mover or seconder of any motion or amendment shall be held to have spoken to the motion or amendment in the discussion of either.

26.2.4 Every member when about to speak must address the Chairperson and conduct himself/herself in a respectful manner towards the meeting.

26.2.5 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 remark, no member rises to speak on the other side, the motion or amendment shall at once be put to the meeting.

26.3 Procedural Motions

26.3.1 The time for debating any question shall be limited to thirty minutes unless a resolution is passed by the meeting for an extension. Provided that no extension shall be for more than twenty minutes.

26.3.2 At any time during debate a member may move that the question be now put, which, on being duly seconded and carried by a majority of those present, shall entail the submission of the motion to the meeting after the mover has replied. No further discussion shall take place after the mover has replied.

26.3.3 The speaker shall allow any member to raise a point of order.

26.3.4 A motion of adjournment having been duly proposed shall be put without further discussion, except to permit the person who moved the motion to explain it, unless an amendment(s) is proposed to alter the motion of adjournment in relation to time if time is mentioned as part of such motion.

26.3.5 A majority of the members present may agree to a motion to suspend standing orders.

26.3.6 Subject to the approval of a two-thirds majority of members present at a meeting, a motion previously decided at a meeting can be recommitted for debate and decision.

26.4 Dissent from Chairperson's Ruling

26.4.1 Any delegate dissatisfied with the ruling of the Chairperson may move a motion of dissent as follows: "That the Chairperson's ruling be dissented from".

26.4.2 The motion shall then be put to the meeting by the Vice President acting as Chairperson, without discussion, in the following manner: "The question is that the Chairperson's ruling be sustained. Those who agree with the Chairperson's ruling will say 'Aye', those opposed to the Chairperson's ruling will say 'No'."

26.4.3 Once the mover has spoken to the motion of dissent and the Chairperson has been given an opportunity to explain his/her reasons for the ruling given, the question shall be put by the Vice Chairperson without further discussion.

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

27 - REGULARITY OF PROCEEDINGS

- 27.1 Any body constituted under these rules may continue to function notwithstanding any vacancy thereon, provided there is the requisite quorum.
- 27.2 Failure to give notice and or a defect in calling any meeting of any body constituted under these rules shall not invalidate those proceedings unless such failure or defect results in the non-attendance of some member otherwise able and willing to attend.
- 27.3 Any such failure or defect may be waived by the member entitled to the notice before, during or after the meeting.
- 27.4 All communications to be sent to any member under these rules may be sent to that member at the last address notified by him/her to the Divisional Branch or the Union.
- 27.5 No decision or proceeding of any body provided for under the rules shall be invalidated by the presence or participation of any person not entitled to be present or to participate if apart from such person the requisite quorum was present and the vote of such person did not determine the decision or the result of the proceedings and no objection to his or her presence or participation was taken at the time.

28 - DISSOLUTION

28.1 Dissolution of the Union

28.1.1 The Union shall not be dissolved unless there is a unanimous decision of the National Council that the question of dissolving the Union be submitted to a ballot of the members in accordance with rule 16 "Control by the Members of National Council and National Executive Officers".

28.1.2 If it is decided that the Union will be dissolved all the property of the Union shall be converted into money and all liabilities discharged and the net balance of money remaining be divided pro rata among the financial Branches of the Union for distribution as those Branches decide.

28.2 Dissolution of a Division or Divisional Group

No Division or Divisional Group can be dissolved or amalgamated without an affirmative ballot of the members of that Division or Divisional Group.

29 - DUTIES OF MEMBERS OF GOVERNING BODIES

- 29.1 The members of National Council, the Divisional Councils and Divisional Executive and Divisional Branch Councils, Conferences and Divisional Branch Executives and other governing bodies of the Union and its Divisions however named shall attend the meetings of the governing bodies of which they are members unless there is a good reason for their non-attendance.

SCHEDULE

29.2 They shall conscientiously attend to the business placed before the governing bodies of which they are members and deal with such business in accordance with the rules.

SCHEDULE

That on and from 1st August 2005 the following shall apply:

That sub-rule 7.10.9 is deleted in its entirety.

That sub-rule 7.10.10 be renumbered 7.10.9

That sub-rule 7A.1.3 is deleted in its entirety.

END OF RULES