

Industrial Relations Act 1979
Industrial Relations Commission Regulations 2005

Form 1 – General Application

Application No. PRES 9/2022


This application is made to the Western Australian Industrial Relations Commission

The application is made to:

- ☒ the Commission
the Public Service Arbitrator

This is an application:

- for a new award (r 48)
- to vary an award (r 49, r 50, r 51)
- for an interpretation of an award or industrial agreement (r 52)
- concerning bargaining for an industrial agreement (r 53)
- for an order specifying the terms of an industrial agreement which remain in dispute following bargaining (r 54A)
- for an enterprise order (r 54)
- for a new industrial agreement (r 55)
- to waive the notice required to be given to an employer, by an authorised union representative, to produce employment records (r 58)
- to stay the operation of a Commission order (r 102(6))
- ☒ under s 66 of the *Industrial Relations Act 1979* (r 59)
- under s 84A of the *Industrial Relations Act 1979* (r 60)
- for an equal remuneration order (r 60A)

-  Select one application type from the list above. If you wish to make more than one type of application, you need to complete a separate Form 1 for each application.



Form 1 – General Application

Applicant's details

- i** Please provide the details of the person, organisation or business (whichever is applicable) that is making this application. **If there is more than one applicant, please attach a separate page which contains the information that is required below, for each additional applicant.**

Title:	<input checked="" type="checkbox"/> Mr Mrs Miss Ms Other:
Given names:	Joshua
Surname:	Dekuyer

Legal name of organisation or business:	
Business trading name:	
ACN or ABN number:	
Name of contact person:	

Postal address:	2/10 Nash Street
Suburb:	Perth
State or Territory:	WA
Postcode:	6000

- i** The postal address provided must be a street address. A **PO Box** or **Locked Bag** number is **not an acceptable postal address** for the purposes of this application.

Phone number:	92256722
Email address:	joshd@rtbuwa.asn.au

Do you need an interpreter?

yes – language required:

--

☒ no

Do you, or any person attending the Commission with you, require any special assistance (such as wheelchair accessibility or a hearing loop)?

yes – please specify:

--

☒ no

Form 1 – General Application

Applicant's representative's details

- i** You may have a representative present your case on your behalf, such as a registered industrial agent, a union official (if you are a member of a union), a lawyer or a family member or friend. If you have a representative, please provide their contact details below.
You are not required to have a representative and may present your own case.

Do you have a representative?

☒ yes

☐ no

Name of representative:	Daniel Stojanoski
Name of organisation, agent, law firm or union:	Slater and Gordon
Postal address:	Level 7, 32 St Georges Terrace
Suburb:	Perth
State or Territory:	WA
Postcode:	6000
Phone number:	63136100
Email address:	daniel.stojanoski@slatergordon.com.au

If you have a representative, the Commission will contact either you or your representative, so you need to decide whether you or your representative are to be the contact person for the Commission. Who would you like the Commission to send documents and correspondence to, relating to your application?

to you **or** ☒ to your representative

How would you like that correspondence sent?

☒ by email **or** by post

- i** If you choose to receive documents and correspondence from the Commission by email, or to have documents and correspondence sent to your representative on your behalf, it is your or your representative's responsibility to check your email inbox regularly for communication from us.

Form 1 – General Application

Respondent's details

- i** In this section, please provide the details of the person, organisation or business (whichever is applicable) that you are making your application against. **If there is more than one respondent, please attach a separate page which contains the information that is required below, for each additional respondent.**

Title:	Mr Mrs Miss Ms Other:
Given names:	
Surname:	

Legal name of organisation or business:	The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch
Business trading name:	
ACN or ABN number:	
Name of contact person:	Joshua Dekuyer

Postal address:	2/10 Nash Street
Suburb:	Perth
State or Territory:	WA
Postcode:	6000

- i** The postal address provided must be a street address. A **PO Box** or **Locked Bag** number is **not an acceptable postal address** for the purposes of this application.

Phone number:	92256722
Email address:	joshd@rtbuwa.asn.au

Industrial Relations Act 1979
Industrial Relations Commission Regulations 2005

Form 1 – General Application

The application

- i** Please set out what outcome, remedy or order you seek and relevant information about the application. You may attach documents in support of your application if you think that may be useful to the Commission and the respondent(s).

What are you seeking?

See attached Schedule.

What are the grounds in support of your application?

See attached Schedule.

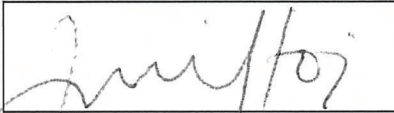
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Form 1 – General Application

Applicant's signature

- ① If you are lodging this form using the Commission's online lodgment system please type your name in full in the signature box below. If you are submitting this form in person, by post, or via email, it must be signed.

Signature:



A handwritten signature, appearing to be 'J. Miller', is written inside a rectangular box. A long, sweeping horizontal line extends from the bottom of the box across the page.

ENDORSEMENT

TAKE NOTICE that the Chief Commissioner of the Western Australian Industrial Relations Commission has today, Wednesday, 10 August 2022, issued directions in respect of application No PRES 9 of 2022, pursuant to s 27 and s 28 of the *Industrial Relations Act 1979* (WA) that:

1. The application be set down for a directions hearing before the Chief Commissioner at 111 St Georges Terrace, Perth in Hearing Room 2 (Floor 18) on Friday, 19 August 2022 at 10:30AM.
2. A copy of application No PRES 9 of 2022 with these directions endorsed thereon be served on the respondent by email/by post in accordance with the *Industrial Relations Commission Regulations 2005* by 2.00PM on Thursday, 11 August 2022.
3. If the respondent intends to oppose the application then before 4:30PM on Tuesday, 16 August 2022 they file a response.
4. At or before the directions hearing the applicant is to, and the other parties may, provide a minute of proposed order setting out the directions sought.

(**NOTE:** The date of hearing of this matter may be fixed at the directions hearing. The parties are to be prepared to inform the Chief Commissioner of the estimated length of the hearing and available dates for hearing.)



In the Western Australian Industrial Relations Commission

JOSHUA DEKUYER

Applicant

- and

THE AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION OF EMPLOYEES,
WEST AUSTRALIAN BRANCH

Respondent

Schedule to Form 1 – s 66 application

Statement of Particulars

A. Introductory

1. This Schedule is filed in support of an application made by the Applicant under s 66 of *Industrial Relations Act 1979* (WA) (**IR Act**).
2. Reg 59(2) of the *Industrial Relations Commission Regulations 2005* (WA) (**Regs**) requires that a statement of particulars be attached to such application. The statement of particulars must include, but is not restricted to:
 - a. particulars of the standing of the applicant as prescribed by s 66(1) IR Act; and
 - b. particulars of any alleged breach of a rule of any organisation or particulars of any rule of any organisation in relation to which a remedy is sought under s 66 IR Act; and
 - c. orders or directions sought.
3. This Schedule deals with the requirements of reg 59(2).
4. For ease of reference, a table of abbreviations used in relation to organisations/ branches referred to in this Schedule together with a brief description of those organisations/ branches is as follows:

Organisation/ branch	Abbreviation used	Brief description
The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch	State Union	Registered with Western Australian Industrial Relations Commission
Australian Rail, Tram and Bus Industry Union	ARTBIU	Registered with Fair Work Commission
West Australian PTA Branch	ARTBIU West Australian PTA Branch	<ul style="list-style-type: none"> • Branch of the ARTBIU • Counterpart federal body of the State Union
West Australian Branch	ARTBIU West Australian Branch	Branch of the ARTBIU
Western Australia Branch	ARTBIU Western Australia Branch	<ul style="list-style-type: none"> • New sole WA branch of the ARTBIU which comes into existence on 1 January 2023 being the product of the merger between the current two ARTBIU WA Branches: ARTBIU West Australia Branch; and the ARTBIU West Australian PTA Branch • Proposed counterpart federal body of the New State Union following proposed s 71 certificate achievement
Australian Rail, Tram and Bus Industry Union of Employees, Western Australia Branch	New State Union	<ul style="list-style-type: none"> • Registered with the WAIRC (following proposed naming amendments to State Union to come into effect 1 January 2023) • (N.B. Not a new registered organisation with the WAIRC but new in name only)

B. Particulars of standing: Section 66(1); and Regulation 59(2)(a)

5. The Applicant is a member of the State Union (and is also its Secretary) and has standing to apply to the Chief Commissioner for an order or direction under s 66 IR Act.

C. Particulars of the rules of the Applicant in relation to which a remedy is sought under section 66 IR Act: Regulation 59(2)(b)

Relevant provisions of the State Union rules

6. The s 66 application relates to the election of office bearers of the State Union.

7. The relevant rules are 34, 35 and 36 of the current registered rules of the State Union.¹

Background and merger of national union state branches

8. The Australian Rail, Tram and Bus Industry Union (**ARTBIU**) is an organisation registered under the relevant provisions of the *Fair Work (Registered Organisations) Act 2009* (Cth).
9. The Rules of the ARTBIU currently provide for two WA Branches, being the “West Australian Branch” (**ARTBIU West Australian Branch**)²; and the “West Australian PTA Branch” (**ARTBIU West Australian PTA Branch**)³.
10. Members working in Western Australia have been allocated to one of these two branches dependent upon their type of work.
11. On 12 November 2021 the ARTBIU applied successfully to the Fair Work Commission (**FWC**) to alter its rules so that the two existing WA Branches of the ARTBIU merge into a single branch of the ARTBIU to be known as the “Western Australia Branch” (**ARTBIU Western Australia Branch**). The same application to the FWC approved the insertion of a new Part XVII into the ARTBIU rules for that purpose. The FWC handed down its Decision on 3 March 2022 and registered the newly altered ARTBIU rules incorporating the alterations.⁴
12. Part XVII of the ARTBIU rules headed “Western Australia Branch” sets out the provisions of the ARTBIU Western Australia Branch which is to apply to members working in Western Australia from the date of the merger.
13. The State Union notes that it proposes to make a separate application for amendments to its current registered rules to deal with the merger. That application proposes to apply to the WAIRC to amend the name of the State Union so that it becomes the “Australian Rail, Tram and Bus Industry Union of Employees, Western Australia Branch” (**New State Union**) and so that the new name and rule amendments come into effect on 1 January 2023.
14. Part XVII of the ARTBIU rules now has a transitional rule, rule 186⁵ which sets out, inter alia:
- a. That the merger of the branches comes into effect on 1 January 2023.
 - b. That Part XVII has no effect before 1 January 2023 and the State Union and the West Australian PTA Branch continue to operate until then.
 - c. That on 1 January 2023, the ARTBIU West Australian Branch and the ARTBIU West Australian PTA Branch will automatically be abolished.

¹ As consolidated up to and including application FBM 5 of 2016 dated 29 March 2017.

² ARTBIU Rules Part XV.

³ ARTBIU Rules Part XVI.

⁴ *Application/Notification by Australian Rail, Tram and Bus Industry Union (139V)* - [2022] FWCG 4.

⁵ Rule 186 at page 145 ARTBIU rules.

- d. That the members of the ARTBIU West Australian Branch and the ARTBIU West Australian PTA Branch will automatically become members of the merged ARTBIU Western Australia Branch on 1 January 2023.
- e. That inaugural elections for the merged ARTBIU Western Australia Branch be undertaken in 2022, and that the successfully elected candidates take office 1 January 2023.

Section 71 certificate

- 15. The State Union holds a certificate pursuant to s 71(5) of the IR Act which aligns its offices with the offices of ARTBIU West Australian PTA Branch. Consequently, the ARTBIU West Australian PTA is the counterpart federal body of the State Union.⁶
- 16. Accordingly, the s 71 certificate, issued on 17 December 2014,⁷ declares that the persons holding office in the West Australian PTA Branch, shall for all purposes, be the officers of the State Union. The Rules of the State Union Part VIII reflect the existence of the s 71 certificate.
- 17. The State Union notes that it proposes to apply to the WAIRC for and obtain a new s 71 certificate aligning its/ the New State Union's offices to those of the ARTBIU Western Australia Branch prior to 1 January 2023.

Election matters

- 18. Under rule 199(3) Part XVI of the ARTBIU rules and rule 35.1 of the State Union's rules, elections to the ARTBIU West Australian PTA Branch (and therefore offices of the State Union) are to occur every 4 years, or until their successor is declared at the next election.
- 19. Accordingly, under the rules the office bearers of both the West Australian PTA Branch and the State Union continue to hold over office until their successors are elected.
- 20. The inaugural elections for the new merged ARTBIU Western Australia Branch are to occur in October 2022 with the nominations for office bearers opening from 22 August 2022 and closing on 12 September 2022 and the voting period opening on 24 October 2022 and closing 21 November 2022.⁸ The persons elected office bearers of that Branch will be waiting in situ until 1 January 2023 to take corresponding offices of the New State Union (subject to the obtaining of a s 71 certificate).⁹

⁶ For the s 71 declaration and orders, see, *The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch v (Not applicable)* 2014 WAIRC 00399. For the Decision in relation to the s 71 declaration and orders, see, *The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch v (Not applicable)* 2014 WAIRC 00438.

⁷ See, *The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch v (Not applicable)* 2017 WAIRC 00179 at [5].

⁸ Australian Electoral Commission, Election Notice – E2022/65 dated 1 August 2022 “Scheduled Election for the ARTBIU Western Australia Branch”. See also, Organisations Commission Decision “Arrangement for conduct of election” for the ARTBIU – [2022] ROCD 71.

⁹ It is proposed that a s 71 certificate will be applied for.

21. Due to the merger of the ARTBIU federal WA branches and the upcoming inaugural elections of the office bearers of the new merged “ARTBIU Western Australia Branch”, the Australian Electoral Council does not intend to run elections to fill the offices of the West Australian PTA Branch.
22. This current s 66 application therefore seeks to waive the observance under the rules of the State Union to run elections to fill the office bearer positions of the State Union; and seeks an order that the current office holders of the State Union hold over their offices until 31 December 2022 after which point the offices of the New State Union become automatically filled.

Grounds to waive election requirements

23. It would be illogical, impracticable, inefficient and an inappropriate use of members’ dues and resources of the State Union to deal with elections to fill office bearers of the State Union, when waiting in situ will be successfully elected candidates for the proposed counterpart federal body of the State Union/ New State Union, who will automatically take office on 1 January 2023 of both the ARTBIU Western Australia Branch; and the New State Union (subject to the obtaining of a s 71 certificate).
24. It is a principal object of the IR Act to encourage the democratic control of registered organisations and the full participation by members in the affairs of such organisations: s 6(f). The orders sought by this application are consistent with the objects of the IR Act as the State Union’s members:
- a. will still have the opportunity to fully participate in the inaugural elections for the ARTBIU Western Australia Branch, which as aforesaid are to occur in late 2022 and the members of current State Union can therefore have control of who will take office of the State Union/ New State Union; and to that end
 - b. the democratic control of the State Union would not be detrimentally affected.
25. Additionally, for the relatively short period of time until the inaugural ARTBIU Western Australia Branch elections are held, the previously democratically elected holders of offices will hold over these offices.
26. The making of the orders sought would be consistent with s 26 of the IR Act and, in particular, the s 26(1)(a) requirement of the Commission to act according to equity, good conscience and the substantial merits of the case. The orders sought make common sense, are a practical and cost effective way of dealing with the issue of the timing of the elections and the impending merger and do not undermine the democratic control of the organisation by its members.
27. In all of the circumstances the application ought to be granted.

D. Orders and directions sought: Regulation 59(2)(c)

28. The State Union seeks the Chief Commissioner make:

- a. an order that observance of rules 34, 35 and 36 of the current registered rules of the Applicant Union be waived in relation to election of office bearers of the State Union; and
- b. an order that that the current office holders of the Applicant Union hold over their offices until 11:59pm 31 December 2022.

E. Material referred to in Schedule and filed with Schedule

Page	Document	Description of document/ notes
1-5	<i>Application/Notification by Australian Rail, Tram and Bus Industry Union (139V) - [2022] FWCG 4</i>	FWC rule alteration “merger” decision 3 March 2022
6-158	ARTBIU Rules	Incorporating alterations of 3 March 2022
159-212	Rules of the Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch	Current, as registered by the WAIRC 29 March 2017
213	<i>The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch v (Not applicable) 2014 WAIRC 00399</i>	Current section 71 declaration and orders
214-230	<i>The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch v (Not applicable) 2014 WAIRC 00438</i>	Decision in relation to the s 71 declaration and orders
231-248	<i>The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch v (Not applicable) 2017 WAIRC 00179</i>	Decision referring to the date the Registrar issued the s 71 certificate
249-269	Registered Organisations Commission Decision “Arrangement for conduct of election” for the ARTBIU – [2022] ROCD 71	Dealing with the inaugural elections for the new merged ARTBIU Western Australia Branch
270-273	Australian Electoral Commission, Election Notice – E2022/65 dated 1 August 2022 “Scheduled Election for the ARTBIU Western Australia Branch”	Inaugural election details for the ARTBIU Western Australia Branch



DECISION

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

Australian Rail, Tram and Bus Industry Union (R2021/200)

MURRAY FURLONG

MELBOURNE, 3 MARCH 2022

Alteration of other rules of organisation.

[1] On 12 November 2021 the Australian Rail, Tram and Bus Industry Union (the Organisation) lodged with the Fair Work Commission (the Commission) a notice and declaration setting out particulars of alterations to its rules. Additional information regarding the requirements of regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009* (the Regulations) was provided 22 December 2021. Further information in support of the application was provided 27 January 2022.

Particulars of the alterations

[2] The particulars set out alterations to insert a new Part XVII – Western Australia Branch into the rules of the Organisation.

[3] At present, the Organisation has two branches representing members in the state of Western Australia – the West Australian Branch and the West Australian PTA Branch. Organisation members residing in the state have been allocated to one or other of the branches based on their employment.

[4] The alterations pave the way for both branches to merge into a single branch, the Western Australia Branch. New Part XVII sets out provisions which would apply to any Organisation member residing in Western Australia from the date of the merger. Part XVII also includes transitional provisions at Part XVII Rule 186 to enable a smooth transition.

[5] As per Part XVII Rule 172, Part XVII only comes into effect from the date of the merger set out in Part XVII Rule 186. Before that date, Part XV and XVI (rules of the West Australian and West Australian PTA Branches respectively) continue to operate and Part XVII has no part to play aside from its abovementioned transitional provisions.

[6] Part XVII Rule 186 sub-rules (10) – (16) sets out provisions for inaugural elections for the merged Branch. These elections are to be conducted in 2022, and the successful candidates take office on and from the merger date, 1 January 2023. Following the inaugural term of office, regular elections would apply in the ordinary course. Once the Branches have been merged, the Organisation has also indicated that further rule alterations will be carried out to remove redundant Parts XV and XVI from the rules of the organisation to provide greater clarity to members.

Rule altering procedure

[7] I cannot certify alterations to the rules of an organisation registered under the *Fair Work (Registered Organisations) Act 2009* (the Act) unless, in my opinion, the alterations have been made under the rules of an organisation.ⁱ In this matter a question arises about whether the alterations were made under the Organisation's rules. In particular, a question arises about whether appropriate notice of the alterations was given.

[8] The matter has a somewhat complex history. It is therefore useful to set out the history of the alterations:

- Notice of the alterations to the Organisation's rules (the Original Alterations) was given to members of National Council on **23 November 2020**.
- The Original Alterations were transacted by National Council on **23 December 2020**.
- The Original Alterations were lodged with the Commission on **27 January 2021**. Those alterations were given matter number R2021/8. The alterations were, with some procedural differences and one substantive change, the same as those currently before me. In summary, those alterations merged the two existing Western Australian Branches of the Organisation. They also proposed arrangements under which specified persons would hold inaugural office in the new Branch, until the next scheduled elections for office throughout the Organisation and put various transitional provisions in place.
- Staff of the Commission engaged with the Organisation about the application throughout **June** and **July 2021** and the Organisation in **August 2021** determined to transact further alterations.
- These new alterations were provided to members of National Council in full **9 October 2021**. However, following discussions with staff of the Commission the Organisation clarified a procedural aspect of the alterations dealing with which Part of the Organisation's rules applied at different points in time.
- Ultimately, a final version of the alterations was provided to members of National Council on **5 November 2021**. This notice (the Final Notice) incorporated a change to proposed Part XVII Rule 172 which had been the subject of the October 2021 discussions. Aside from this change, the remainder of the alterations were identical to those put to the National Council on **9 October 2021**.
- The final version of the alterations was transacted by National Council **10 November 2021**.

- R2021/8 was withdrawn **12 November 2021**. A new application, given matter number R2021/200 (the current application) was lodged at the same time.

[9] As can be seen, the Organisation’s National Council has been formally considering the restructure of its Western Australian operations, on at least three separate occasions, since at least late 2020. With one exception, the substance of the alterations to effect a merger of the West Australian and West Australian PTA Branches has been unchanged throughout the period.

[10] The Rules of the Organisation provide as follows:

87 – Amendment to Rules

- (2) Any rescission, alteration or amendment to these Rules shall be of no effect unless it complies with the following provisions:-
- (i) the National Secretary shall forward all members of the National Council written notice of the proposed rescission, alteration or amendment which sets out the proposal in full;
 - (ii) such notice shall specify the time and place of the National Council meeting which is to consider the proposal or the details of the ballot which is to determine the matter, which meeting or ballot shall be not less than one month after the date of the notice;
 - (...)

[11] As noted, the Declaration provided in support of the application indicates that notice of the alterations was provided together with a notice of meeting to members of the National Council on 9 October 2021. On 5 November 2021 further notice of the alterations was provided to members of the National Council. The alterations were transacted at a meeting held on 10 November 2021. If regard is had only to the Final Notice it is apparent that written notice of the proposed alteration, which sets out the proposal in full, was not given a month before the meeting which transacted the changes.

[12] In *Master Grocers Australia Limited*,ⁱⁱ I considered whether a failure to strictly comply with the rule-altering procedure invalidated the resolution in question:

[6] The question of whether a registered organisation must strictly comply with its rule altering procedure was considered by Delegate Enright in *Master Builders’ Construction and Housing Association of the Australian Capital Territory*.ⁱⁱⁱ Delegate Enright applied the test expressed in *Project Blue Sky Inc v Australian Broadcasting Authority*^{iv} (*Project Blue Sky*) and subsequently applied to the rules of unincorporated associations in *Re: Australian Principals Federation*.^v

[7] In *Project Blue Sky*, a majority of the High Court of Australia found that “[a]n act done in breach of a condition regulating the exercise of a statutory power is not necessarily invalid and of no effect”.^{vi} The majority rejected the approach traditionally taken by the courts in distinguishing between mandatory and directory obligations, finding that “[a] better test for determining the issue of validity is to ask whether it was a purpose of the legislation that an act done in breach of the provision would be invalid.”^{vii}

[8] A Full Bench of the Australian Industrial Relations Commission in *Re: Australian Principals Federation* applied these principles to alleged non-compliance with the rules of an unincorporated association, finding that the test is whether it was a purpose of the rules that an act done in breach of a rule should be invalid. In determining the question of purpose, regard must be had to the language of the relevant rule and the scope and object of the whole of the rules.^{viii}

[9] In my view, this reasoning applies equally to the rules of registered organisations...

[13] The relevant question is whether it is a purpose of the rules that the insufficient period that elapsed between giving of the Final Notice and the meeting that transacted the alterations should render the purported transactions of the alterations invalid.

[14] In response to enquiries made by Commission staff, Mark Diamond, National Secretary of the Organisation has stated that no concerns were raised, either when the original notice of the proposed alterations was given on 9 October 2021, when the Final Notice was provided on 5 November 2021 or at the 10 November meeting

[15] It is relevant, in my view, that these alterations are the culmination of ongoing engagement between the Commission and the organisation that stretch back to early 2021. The substance, if not the final form of the alterations, has been known to the National Council for more than a year. With one exception, the final form of the alterations has been in the hands of the National Council for more than a month, consistent with Rule 87(2)(ii). The members of the National Council have therefore had ample time to consult with their constituents and raise any concerns regarding the nature of the alterations.

[16] The amendment, which was not the object of a month's notice, did not change the substance of the alterations. It was minor and technical in nature. At its highest, it affirmed the existing intention of the relevant rule and as a consequence provided clarity for members regarding which alterations would operate at which time.

[17] In the circumstances, based on the information contained in the notice and the additional information provided, giving the Final Notice to the National Council less than one month before the meeting which transacted the alterations did not invalidate that business. As a consequence, I am satisfied that the alterations were made under the rules of the Organisation.

Consent to amend

[18] On 21 January 2022, Mark Diamond, National Secretary, gave consent, under subsection 159(2) of the Act, for the General Manager to amend the alterations for the purpose of correcting a typographical, clerical or formal error. Accordingly, the following correction has been made:

- In proposed sub-rule 178(5)a., the word 'archive' has been amended to 'achieve'.

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



GENERAL MANAGER

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ⁱ See section 159(1)(c) of the Act.

ⁱⁱ [2017] FWCD 2547.

ⁱⁱⁱ [2013] FWCD 3600.

^{iv} (1998) CLR 355.

^v *Appeal by the Australian Education Union against the decision of Vice-President Ross of 27 January 2006*; Lawler VP, Kaufman SDP, Smith C; 26 September 2006; PR973525.

^{vi} (1998) CLR 355 at [92].

^{vii} *Ibid* at [93].

^{viii} PR973525 at [55].

139V: Incorporates alterations of 23 May 2022 [R2021/201]]
(replaces rulebook dated 3 March 2022 [R2021/200])

I CERTIFY under section 161 of the Fair Work (Registered Organisations)
Act 2009 that the pages herein numbered 1 to 147 both inclusive contain a
true and correct copy of the registered rules of the Australian Rail, Tram and
Bus Industry Union.

DELEGATE OF THE 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.]

Rules of the Australian Rail Tram and Bus Industry Union

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AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION NATIONAL RULES**PART I - MEMBERSHIP AND OBJECTS****1 - NAME OF UNION**

The name of the Union shall be:-

"Australian Rail, Tram and Bus Industry Union"

2 - REGISTERED OFFICE

The Registered Office which shall be the National Office of the Union shall be at Suite 210, Trades Hall, 4-10 Goulburn Street, Sydney, New South Wales or at such other place as the National Council may from time to time determine.

3 - DEFINITIONS

“Board” means a group of persons who supervise, govern or otherwise have oversight of a corporation, association, or other like body including a Board of Directors.

“Branch” means a Branch of the Union established pursuant to Rule 6.

“Branch Division” means a National Division or combined National Divisions operating within a Branch pursuant to the provisions of Rule 6.

"Branch Divisional Organiser" means an Organiser who has responsibility for servicing a particular Branch Division.

“Branch Offices” means the Offices specified in Parts X to XV.

“Branch Organiser” means an Organiser who has responsibility for servicing more than one Branch Division.

“Branch Sub-Division” is as defined in Sub-Rule 6(15).

“Declared person or body” means

- (i) an Officer of the Union who has disclosed a material personal interest under rule 21 and
- (ii) the interest relates to, or in the person or the body, and
- (iii) the Officer has not notified the Union that the Officer no longer has the interest.

"Disclosure Period" for the purposes of these Rules means the financial year unless a shorter period is specified.

3 - DEFINITIONS

“Election Year” means a year in which biennial or quadrennial elections are due to be held in accordance with these Rules.

“Ex-Officio”, in relation to membership of a Governing Body or Committee means membership by reason of an Office held and such membership shall involve full participation and voting rights.

“Financial” and “Unfinancial” are as defined in Rule 13.

“financial duties” includes duties that relate to the financial management of the Union.

“Health Fund Member” is a member who shall be deemed a financial member only for the purposes of retaining ongoing membership of the RTBU Health Fund. Such a member shall be exempt from membership subscriptions and shall not be entitled to cast a ballot in any election of the Union.

“General Manager” means the General Manager of the Fair Work Commission.

“Meeting” in relation to a Governing Body includes a meeting held by telephone conference or video conference where such a conference is provided for in these Rules.

“National Division” means a National Division of the Union established pursuant to Rule 6.

“National Divisional Office Bearers” means the Assistant National Secretaries (Divisional) and the National Divisional Delegates from the Branch to the National Council.

“National Offices” means the Offices specified in Sub-Rule 31(1).

“National Organisation” means the National Governing Bodies of the Union as set out in Sub-Rule 9(2).

“Office” means all positions specified in these Rules as National Offices or Branch Offices.

“Office Bearer” means a person holding an Office.

“Officer” means a person who holds an office in the Union.

“peak council” means a national or State council or federation that is effectively representative of a significant number of organisations (within the ordinary meaning of the term) representing employers or employees in a range of industries.

“Private Sector” shall mean not of a Federal, State or Local government owned nor controlled enterprise.

“Quarter” means a period of three calendar months commencing on either 1 January, 1 April, 1 July or 1 October.

“related party” has the same meaning as defined by Section 9B of the RO Act as if the reference contained therein was a reference to the ordinary meaning of the term.

3 - DEFINITIONS

“relative” in relation to a person means:

- (i) parent, step-parent, child, stepchild, grandparent, grandchild, brother, or sister of the person, or
- (ii) the spouses of the first mentioned person.

“relevant remuneration” in relation to an Officer of the Union for a disclosure period is the sum of the following:

- (i) any remuneration disclosed to the Union by the Officer under Rule 21 during the disclosure period,
- (ii) any remuneration paid during the disclosure period to the Officer by the Union.

“remuneration” included pay, wages, salary, fees, allowances, leave, benefits or other entitlements; but does not include

- (i) a non cash benefit
- (ii) the reimbursement or payment of reasonable expenses for the costs incurred in the course of the Officer carrying out his or her duties.

“RO Act” means the *Fair Work (Registered Organisations) Act 2009* (Cth) or any Act replacing that Act.

“RO Regulations” means the *Fair Work (Registered Organisations) Regulations 2009* (Cth) or any Regulations replacing those Regulations.

“Sub-Branch” is as defined in Sub-Rule 6(16).

“Sub-Branch Committee” means the Committee for a Sub-Branch.

“Sub-Divisional Committee” means the Shop Committee for a depot, shed, workplace or location that comprises a Branch Sub-Division.

“Sub-Divisional Representative” means a representative elected by members within a Sub-Division to represent those members on the Branch Divisional Committee.

“Union” means the “Australian Rail, Tram and Bus Industry Union” which is an organisation registered under the RO Act, and unless the context otherwise indicates, includes all parts of the Union.

“Vice-President” includes Senior Vice-President and Junior Vice-President unless the context clearly indicates otherwise.

4 - ELIGIBILITY FOR MEMBERSHIP

- (1) The following shall be eligible to become members of the Union:-
- (i) permanent or casual employees, including persons training for employment, in the tramway services of Australia and motor omnibus services and trolley bus services and light rail services run in conjunction therewith or controlled thereby, and also employees of the State Transit Authority of New South Wales, the Public Transport Corporation of Victoria, the State Transport Authority of South Australia, the Metropolitan Transport Trust Tasmania, the Brisbane City Council and the Metropolitan (Perth) Passenger Transport Trust and any Commonwealth, State or Local Government, in tramway or motor omnibus or trolley bus or light rail services together with such other persons whether employed in the industry or not who at any time when training for employment or working in the tramway, trolley bus, motor omnibus or light rail services have been admitted as members and who continue that membership.

Provided nothing in this paragraph (i) shall permit the Union to enrol as members persons employed in the States of Victoria, Queensland, Tasmania and Perth as clerks, ticket examiners, depot starters, assistant depot starters or inspectors; and

- (ii) an unlimited number of employees employed in or in connection with the Railway and Tramway industry or industries governed and controlled directly by the Governments of the Commonwealth of Australia and the States of Queensland, New South Wales, Victoria, South Australia, Western Australia and Tasmania, or indirectly by such Governments, or any of them through Commissioners, Boards, Managers, Directors, or other means, and also all railway systems in the Commonwealth of Australia owned and controlled by private persons or companies, and the Secretary and/or any employee of the Railway Institute established by or under the direction or with the approval of the Commissioners, Boards, Managers, Directors or other controlling authorities of any of the railway systems in the Commonwealth of Australia; and
- (iii)
 - (a) an unlimited number of railway employees (adult or junior, male or female) who become and remain members of the Union and persons who while being members of the Union retire from the railway industry upon the ground of ill health or having reached retiring age and whose membership has not been terminated pursuant to these Rules;
 - (b) for the purposes of sub-paragraph (iii)(a) above, "Employee" or "Railway Employee" means any officer or employee employed by any Railway Department and also any officer or employee employed in any railway system in the Commonwealth owned or controlled by private persons or corporations other than officers in a supervisory position employed at an annual rate of salary and shall include the Secretary or any employee of any Railway Institute established by or under the direction or with the approval of the Railway Commissioner or other controlling authority of any railway system in the Commonwealth and "Railway industry" has a corresponding meaning; and

4 - ELIGIBILITY FOR MEMBERSHIP

- (iv) an unlimited number of persons employed in the Railway Train Running Industry including Locomotive Drivers, Electric Train Drivers, Firemen, Electric Helpers, Chargemen and Cleaners, Packers and Trimmers, Wash-out Men, Wash-out Men's Assistants, Motor Drivers and any other worker engaged in and about the working or management of or incidental to any Steam Locomotive or Motor driven by electricity or other power used on any Railway;

provided that, except as provided in Sub-Rules 4(3), 12(3) and 12(4), a person shall only be eligible to remain as a member while he/she continues to meet one or other of the eligibility criteria specified in the foregoing paragraphs.

- (2) Each of the paragraphs numbered (i) to (iv) in Sub-Rule 4(1) shall be interpreted separately. Accordingly, each paragraph shall neither limit nor be limited by the provisions of any other paragraph.
- (3) Notwithstanding the proviso to Sub-Rule 4(1), a person who is admitted to membership pursuant to the provisions of Rule 10 and who subsequently is elected as a paid Office Bearer of the Union or becomes an employee of the Union, shall be entitled to remain as a member while holding such Office or engaged in such employment.
- (4) Without in any way limiting or being limited by the provisions of sub rules (1), (2) and (3) inclusive, the following persons shall be eligible for membership of the Union:
 - (i) NOT CONSENTED TO ([2020] FWC 1489)
 - (ii) All employees of the State Transit Authority of New South Wales and any successor, assignee or transmittee, whether direct or indirect, of the business and/or the roles, functions or responsibilities (or any part thereof) of the State Transit Authority of New South Wales; and
 - (iii) All employees of Keolis Downer Hunter Pty Ltd and any successor, assignee or transmittee, whether direct or indirect of the business (or any part thereof) of Keolis Downer Hunter Pty Ltd where such employees are employed in or in connection with the provision of bus services in the area identified as Outer Metropolitan Bus Contract Region 5 – Newcastle otherwise known as State Transit Region 5 Newcastle; and
 - (iv) NOT CONSENTED TO ([2020] FWC 1489)
 - (v) NOT CONSENTED TO ([2020] FWC 1489)
 - (vi) All employees of Transit Systems West Services Pty Ltd and any successor, assignee or transmittee, whether direct or indirect of the business (or any part thereof) of Transit Systems West Services Pty Ltd where such employees are employed in or in connection with the provision of bus services in the area identified as Sydney Metropolitan Bus Service Contract 6 otherwise known as State Transit Region 6.

4 - ELIGIBILITY FOR MEMBERSHIP

- (5) Without in any way limiting or being limited by the provisions of Sub-Rules 4 (1), (2), (3) and (4), inclusive the following persons shall be eligible for membership of the Union:
- (i) any person employed to drive or otherwise operate a bus, or chaperone passengers on a bus, in connection with the provision of a public passenger service (howsoever described) from a depot in an area, or any part of an area, in NSW which was, as at 1 January 2016, within the following bus service contract regions (as they were then):
 - i. Outer Sydney Metropolitan Bus Service Contract Region 5;
 - ii. NOT CONSENTED TO ([2021] FWC 5979)
 - iii. Sydney Metropolitan Bus Service Contract Region 7;
 - iv. Sydney Metropolitan Bus Service Contract Region 8; or
 - v. Sydney Metropolitan Bus Service Contract Region 9.
 - (ii.) additionally, in the Bus Service Contract Regions described in paragraph (i) of sub-rule 5 of this Rule, any person employed:
 - i. to be trained as an operator of such a bus;
 - ii. to clean such a bus;
 - iii. to supervise a yard of such buses;
 - iv. to drive buses in a yard of such buses;
 - v. to provide customer service from or in connection with such buses;
 - vi. as a sign-on clerk or roster clerk or other clerical or administrative employee located at or employed in connection with a yard of such buses, or
 - vii. to maintain, refuel and service such buses.

5 - OBJECTS

The objects of the Union are:-

- (a) to uphold the rights of combination of labour, to maximise the amount of labour employed within the rail, tram and bus industry and to improve, protect and foster the best interests of its members;
- (b) to take all necessary steps and actions under any relevant legislation or otherwise, for the purpose of securing satisfactory industrial and working conditions without discrimination, in respect of the remuneration of labour, the hours of labour and other conditions in or in relation to employment in the rail, tram and bus industry;
- (c) to provide for the protection and safety of its members and members of the public in the course of or in connection with its members' employment;
- (d) to obtain preferential treatment for its members in all aspects of their employment;
- (e) to improve the social and economic position of its members;
- (f) to assist members or their families in distress;
- (g) to formulate and carry into operation schemes for the industrial, social, recreational, intellectual and general advancement of members and to make arrangements with persons engaged in any trade, business or profession for the provision to members of any special benefits, privileges and advantages and in particular in relation to goods and services;
- (h) to establish and maintain social clubs and other recreational facilities and amenities for the benefit of members and their families;
- (i) to establish, operate and maintain health services;
- (j) to establish sickness and/or accident funds, mortality benefit and/or retirement gratuity funds and any other appropriate funds for the benefit of members, Office Bearers and employees of the Union or any particular class or group of members, Office Bearers and employees of the Union;
- (k) to establish Branches, Sub-Branches, Divisions, Sub-Divisions or other organisational structures of the Union and to establish Governing Bodies and/or Consultative Committees in relation to each organisational level;

5 - OBJECTS

- (l) to assist members by all reasonable and proper means, to address any and all grievances which the members may have, and without limiting the generality of the foregoing -
 - (i) to assist members in enforcing their rights under any law relating to industrial conciliation or arbitration or compensation for illness or injuries or any other statutory enactment;
 - (ii) to provide financial, legal and other assistance for securing, protecting and advancing the rights, privileges, benefits, interests and welfare of members and their families and for the conduct of negotiations or any proceedings for the attainment of this object;
- (m) to establish and/or maintain Official Journals, other journals, newspapers or other publications, or radio, television or other electronic broadcasting facilities and/or to assist in the establishment, operation and maintenance of any such publications or facilities owned by bona fide trade unions or labour organisations or conducted in the interests thereof, including but not limited to the purchase of shares in any corporation carrying on such an activity;
- (n) to provide information on industrial, economic, social, legal and political matters affecting members;
- (o) to organise and/or assist in the training and education of members and without limiting the generality of the foregoing, to assist any movement or institution for the training of members in the skills and duties of their occupation or their rights and duties as members of the working class;
- (p) to encourage, develop and maintain fraternal relations with and to assist kindred organisations and their members and dependants, either in or out of Australia;
- (q) to encourage and support the organisation of industrial unionism by the establishment of one union for all grades and classifications of railway, tram and bus industry employees and the linking up, by amalgamation with unions in other sections of the transport industry or in other industries as the National Council may from time to time determine;
- (r) to co-operate, affiliate, federate, amalgamate, merge with or absorb any association, organisation or union of employees whether registered or not pursuant to any industrial law of the Commonwealth of Australia or of any State or Territory of Australia;
- (s) to assist in the movement for the socialisation of the means of production, distribution and exchange, and for the application of the principles of democracy to industry, and without limiting the generality of the foregoing, to assist, support and/or encourage direct representation in the Federal and State Parliaments and Municipal and Shire Councils with the view to promoting such legislative reforms as will ensure social justice to workers and to actively support by all possible means, the complete nationalisation of all forms of public transport and carriage of freight;
- (t) to affiliate with and/or assist financially or otherwise, any bona fide labour or trade union organisation or association or representative body or council which promotes or protects the cause of labour;

6 - STRUCTURE AND ORGANISATION

- (u) to establish, maintain and/or assist any body, corporation or association concerned with research into industrial, economic, social, legal and political matters affecting members and the trade union movement;
- (v) to resist the introduction or the continuation of bonus, booty gang, piece work and similar pernicious systems of employment;
- (w) to raise funds by contributions, levies, fines, donations, fees, interest on capital, and otherwise for any of the objects of the Union;
- (x) to invest funds;
- (y) to purchase, take on lease or in exchange, hire or otherwise acquire any property, including any land, buildings or easements, for any purpose connected with the conduct of the Union;
- (z) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Union;
- (aa) to borrow or raise funds or secure the repayment of funds;
- (bb) to undertake and do all such acts, matters and things as may be necessary, incidental or conducive to the attainment of the above objects or any of them.

PART II - STRUCTURE AND GOVERNMENT

6 - STRUCTURE AND ORGANISATION

- (1) The Union shall be organised principally on a National, a Branch, a Sub-Branch, a National Divisional, a Branch Divisional and a Branch Sub-Divisional basis.
- (2) The number and boundaries of each Branch shall be determined from time to time by the National Council having regard to geographical boundaries and/or employer and/or other relevant factors.
- (3) Subject to any subsequent decision by the National Council of the Union, the Union shall have the following Branches:-
 - New South Wales Branch
 - Queensland Branch
 - South Australian and Northern Territory Branch
 - Tasmanian Branch
 - Victorian Branch
 - Western Australia Branch
- (4) The New South Wales Branch shall comprise all members whose usual place of work is located within the State of New South Wales and the Australian Capital Territory together with members employed by the State Rail Authority of New South Wales or its successor.

6 - STRUCTURE AND ORGANISATION

- (5) The Queensland Branch shall comprise all members whose usual place of work is located within the State of Queensland other than persons employed by the State Rail Authority of New South Wales or its successor.
- (6) The South Australian and Northern Territory Branch shall comprise all members whose usual place of work is located within the State of South Australia or within the Northern Territory.
- (7) The Tasmanian Branch shall comprise all members whose usual place of work is located within the State of Tasmania.
- (8) The Victorian Branch shall comprise all members whose usual place of work is located within the State of Victoria.
- (9) Members in Western Australia shall be allocated between two branches - the West Australian Branch which shall comprise all members whose usual place of work is located within the State of Western Australia and the West Australian PTA Branch which shall comprise all members employed by the Public Transport Authority of Western Australia or who are employed in or in connection with the activities of the Public Transport Authority.
- (10) Divisions shall be defined primarily by reference to work functions and shall operate at both the National and the Branch level.
- (11) Subject to sub-rule 6(12) the Union shall have the following National Divisions:-

National Administrative, Supervisory, Technical and Professional Division
 National Infrastructure Division
 National Locomotive Division
 National Rail Operations Division
 National Tram and Bus Division
 National Fleet Manufacture, Overhaul, Maintenance and Service Division

with each Division being defined as follows:-

The National Administrative, Supervisory, Technical and Professional Division shall comprise members employed in an administrative, supervisory, technical or professional position or in any clerical or other position which attracts an annual salary but excluding crafts, trades and the driving of trains, buses, trams or other vehicles.

The National Infrastructure Division shall comprise members employed in the construction and maintenance of a permanent way and associated structures, signalling, buildings, bridges, electrical reticulation and related areas.

The National Locomotive Division shall comprise members employed in railway train running including locomotive drivers, electric train drivers, firemen, locomotive assistants, electric helpers, chargemen and cleaners, and rail motor drivers and trainees in these callings and, in Queensland, guards.

The National Rail Operations Division shall comprise members employed in all operational aspects of railway services both freight and passenger, other than members in the Locomotive Division or in the Administrative, Supervisory, Technical and Professional Division.

The National Tram and Bus Division shall comprise members employed in the tramway, motor omnibus and/or trolley bus industry including light rail services which are an extension of existing tram routes.

The National Fleet Manufacture, Overhaul, Maintenance and Service Division shall comprise members, other than professional or salaried staff, employed in fleet manufacture, overhaul, maintenance and service.

- (12) The National Council may, with the consent of the National Divisional Committees of the National Divisions affected, vary the number and scope of the National Divisions.
- (13) Each National Division shall be divided into Branches, known as Branch Divisions and the boundaries of such Branch Divisions shall correspond with the Branches of the Union.
- (14) Notwithstanding the provisions of Sub-Rule 6(13), a Branch Council may, with the consent of the Branch Divisional Committees and a majority of the financial members present and voting at a General Meeting, of the Branch Divisions affected, determine that two or more National Divisions established pursuant to Sub-Rules 6(11) and 6(12), should operate as a single Branch Division.
- (15) Branch Sub-Divisions shall comprise groups of members within a Branch Division and shall be defined by reference to depots, sheds or other workplace, or geographical location or any other convenient sub-grouping of a Branch Division.

Subject to any specific designation of Branch Sub-Divisions in Parts X to XVI of these Rules, the establishment and scope of each Branch Sub-Division shall be determined by the relevant Branch Divisional Committee but may be reviewed by the Branch Council and/or the relevant National Divisional Committee. Any disagreement between the National Divisional Committee or the Branch Council and the Branch Divisional Committee in relation to the establishment and scope of Branch Sub-Divisions shall be resolved by the National Council.

- (16) Sub-Branches shall comprise groups of members within the Branch defined by reference to geographical location and comprising some or all members of the Branch within that location.
- (17) In addition to the structure and organisation provided for in this Rule, Branch Conferences or Regional groupings of Sub-Branches, Branch Sub-Divisions or Sections of Branch Sub-Divisions or any other convenient groupings or sub-groupings of members may be established as provided for in these Rules.

7 - BRANCH AND SUB-BRANCH MEMBERSHIP

- (1) Each member shall belong to that Branch of the Union within the boundaries of which his/her usual place of work is located.
- (2) Where Sub-Branches are established within a Branch, members shall be allocated to such Sub-Branches.

8 - MEMBERSHIP OF DIVISIONS AND SUB-DIVISIONS

- (1) Each member shall be allocated to that National Division which most closely accords with his/her work functions. The principles of allocation shall be determined by the National Council and the allocation shall be undertaken by the relevant Branch Secretary in accordance therewith. Any question or dispute relating to the appropriate allocation of a member or members shall be resolved by the relevant Branch Council, but a member shall have a right to appeal to the National Executive.
- (2) The National Division to which a member is allocated shall determine his/her electorate for the purposes of elections for National Divisional Office Bearers and subject to Sub-Rule 8(3), for Branch Divisional Office Bearers.
- (3) Where the Branch Council has determined that two or more National Divisions shall operate as a single Division at Branch level, then the Branch members of those National Divisions shall be allocated to the single Branch Division for the purposes of Branch operations and Branch elections.
- (4) A member who becomes a paid Office Bearer or an employee of the Union shall retain his/her National and Branch Divisional membership.
- (5) Where Sub-Divisions are established within a Branch Division, members shall be allocated to such Sub-Divisions.

8A – ADMISSION TO ASSOCIATE MEMBERSHIP

- (1) Each associate member is a person who may apply for membership as an associate member of the Union who is otherwise not eligible to be a member pursuant to Rule 4.
- (2) An associate member is not entitled to hold Office; attend or vote at meetings; take part in elections; or participate in any business of the Union.
- (3) An associate member shall be a non-financial member who does not have the rights of a financial member of the Union.
- (4) Membership contributions per annum shall be determined by the National Council.
- (5) Any associate member that seeks to bring the Union into disrepute or is involved in actions that seek to injure, vilify or reduce the standing of the Union in any fashion will have their membership cancelled without appeal.

9 - GOVERNING BODIES AND OTHER COMMITTEES

- (1) The Governing Bodies and other Committees within the Union shall be the National Council, the National Executive, National Divisional Committees, Branch Councils, Branch Executives, Branch Divisional Committees, Sub-Branch Committees, Sub-Divisional Committees and such additional bodies as are provided for in Part VI and Parts X to XVI of these Rules.
- (2) The structure and composition of the National Governing Bodies of the Union shall be as follows:-

National Council:

Members of the National Executive
National Divisional Delegates from the Branch to the National Council.

National Executive:

National President
National Vice-President (Rail)
National Vice-President (Road)
National Vice-President Affirmative Action (Women)
National Secretary
Assistant National Secretary
Assistant National Secretaries (Divisional)
Branch Secretaries
Branch Delegates to the National Executive.

National Divisional Committees:

Assistant National Secretary (Divisional)
Branch Divisional Secretaries
National Divisional Delegates from the Branch to the National Council
National President)
National Vice-President (Rail))
National Vice-President (Road))
National Vice-President Affirmative Action (Women)) Ex-officio
National Secretary)
Assistant National Secretary)

- (3) The structure and composition of the Branch Governing Bodies and other Committees shall be as specified in Parts X to XVI of these Rules. Unless otherwise provided for in Parts X to XVI of these Rules the structure and composition shall be as follows:-

Branch Council:

Members of the Branch Executive
Branch Divisional and Regional Delegates to the Branch Council
Branch Organisers/Branch Divisional Organisers

Branch Executive:

Branch President
Branch Vice-President
Branch Secretary
Assistant Branch Secretary
Branch Divisional Presidents
Branch Divisional Secretaries
Branch Organisers/Branch Divisional Organisers

Branch Divisional Committees:

Branch Divisional President
Branch Divisional Vice-President
Branch Divisional Secretary
Assistant Branch Divisional Secretary
Representatives from the Sub-Divisions
Branch Divisional Organisers
Branch Secretary (Ex officio)

Branch Sub-Divisional Committees

Branch Sub-Divisional President
Branch Sub-Divisional Vice-President
Branch Sub-Divisional Secretary
Committee members

Sub-Branch Committees

Sub-Branch President
Sub-Branch Vice-President
Sub-Branch Secretary
Committee members

- (4) **National Women's Campaign Committee**

The National Women's Campaign Committee shall promote and pursue Affirmative Action policies for the RTBU, and develop and mentor women leaders in our union and the industry. The National Women's Campaign Committee will also publicly advocate issues for women in the transport industry.

The National Women's Campaign Committee shall meet at least annually and shall comprise of the National Vice President Affirmative Action, and one delegate from every Branch.

Branch Delegates to the National Women's Campaign Committee must be nominated by respective Branch Executives. Delegates must also be financial members of their Branch.

PART III – MEMBERSHIP**10 - ADMISSION TO MEMBERSHIP**

- (1) All persons eligible for membership of the Union under the provisions of Sub-Rule 4(1) of these Rules shall be entitled to seek membership of the Union by making application to the Branch Secretary of the relevant Branch.
- (2) The form of application for membership shall be as determined from time to time by the National Council or the National Executive.
- (3) Applications for membership shall be accompanied by such entrance fee, if any, as the National Council shall from time to time determine.
- (4) Except as provided for in Sub-Rule 10(5), a person's membership of the Union commences on and from the date on which his/her application for membership is received by the Branch Secretary.
- (5) If the Branch Secretary considers that an applicant for membership is either ineligible for membership of the Union or is of general bad character, the Branch Secretary shall refer the application for consideration by the Branch Executive. The Branch Executive shall decide whether to accept or reject the application and in the event of acceptance, the applicant shall be deemed to be a member from the date that his/her application was received by the Branch Secretary.
- (6) The Branch Secretary shall inform applicants for membership in writing of the financial obligations arising from membership and of the circumstances and the manner in which a member may resign from the Union.
- (7) No error, or omission or want of form in connection with a person's application for membership shall in itself invalidate membership.

10A - MEMBERSHIP ARRANGEMENTS AND AGREEMENTS

Where as a result of an arrangement entered into by the union, including any agreement made pursuant to RULE 84 - AGREEMENTS WITH OTHER ORGANISATIONS, it is desired that the union and any other union, association or group of persons, whether members of the union or not, may come together, whether by way of absorption, merger, amalgamation or otherwise, and for that purpose it is desired to:

- (i) Admit any person, persons, or group of persons or any of them to the union; and/or to:
- (ii) Waive any or part of any requirement as to payment of subscriptions in respect of persons who have paid contributions to some other union, association or group of persons; and/or to:
- (iii) Waive restrictions in these Rules as to election or appointment of persons to offices in the union which would require a person or nominator to have been a member or financial member for a period prior to nomination, election, holding of office or similar requirement. The National Council shall decide the extent and nature of any such restrictions as may be deemed applicable.

11 - MEMBERSHIP CONTRIBUTIONS

The National Council may decide that such person, persons or group of persons shall be admitted as members to the union in accordance with the eligibility rule (rule 4) at a time determined by the National Council and that such requirements and restrictions shall not apply for a period as specified up to a maximum of twelve months after their admission to membership.

For the purpose of this sub-Rule the National Council may decide that, notwithstanding the provisions of Rule 10, it shall be sufficient that application in writing be made on behalf of such person, persons or group of persons, by the other union, association or group of persons or by a person authorised by such other union, association or group to make such application.

A person or persons on whose behalf an application for membership has been made pursuant to this Rule shall be informed in writing of:

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

A person on whose behalf an application for membership is made in accordance with this Sub-Rule shall be advised in writing that an application for membership of the Union has been made on their behalf.

Such person shall also be advised in writing that they may decline membership of the Union within the period of one month after the receipt of such advice by advising in writing the Branch Secretary of the relevant Branch. In the event of such an applicant for membership not declining membership within the said period, such person shall be taken to have been a member from the date of the application for membership.

11 - MEMBERSHIP CONTRIBUTIONS

- (1) A member shall pay such subscription rates, entrance fees, and National levies as are determined from time to time by the National Council together with such Branch levies as are determined from time to time by the Branch Council of the member's Branch. All monies due shall be paid to the relevant Branch Secretary.
- (2) A member shall pay such fines as may be imposed upon him/her by a Branch Executive or a Branch Divisional Committee pursuant to these Rules.
- (3) The method of payment of entrance fees, levies and fines shall be as determined from time to time by each Branch Council.
- (4) Subject to Sub-Rule 11(5), all subscriptions shall be paid either annually in advance or quarterly in advance at the option of the individual member. Where subscriptions are paid annually, payment shall be made no later than 1 January in each year and where subscriptions are paid quarterly, then payment shall be made no later than 1 January, 1 April, 1 July and 1 October in each year.

12 - MEMBERSHIP STATUS

- (5) Where the Union has entered into an arrangement with an employer or other body providing for the collecting and remitting of subscription payments through regular payroll, bank account or other deductions, then a member may elect to pay his/her subscriptions by means of such deductions. Where a member has so elected, he/she shall sign a deduction authority authorising the periodic deduction of the prescribed subscription rate.
- (6) The employer or other body making the subscription deductions shall be the agent of the member in making those deductions and it shall be the member's responsibility to ensure that deductions are duly made, provided that an advice slip showing that the requisite subscription rate was deducted for a given period shall be conclusive evidence that the member's subscription has been paid for that particular period.
- (7) A member paying his/her subscriptions through periodic deductions shall be financial from the date of the first such deduction provided that he/she owes no prior arrears.
- (8) Notwithstanding the foregoing provisions of this Rule, should any member during any financial year be without pay owing to ill health or to other causes which a Branch Executive regards as warranting special consideration, then the Branch Executive may grant the member exemption from payment of all or any contributions imposed in accordance with the Rules for all or part of the period during which he/she is without pay. During the period of the exemption, the member shall be deemed to be financial.
- (9) Notwithstanding the foregoing provisions of this Rule, if a member is a financial member of another union of employees, approved by the National Council, up until the end of the quarter during which he/she joins the Union, that member shall not be required to pay contributions for that quarter and shall be deemed to be financial up until the end of that quarter.

12 - MEMBERSHIP STATUS

- (1) Except as provided in Sub-Rules 12(3) and 12(4), only members who continue to meet the eligibility criteria specified in Sub-Rule 4(1) of these Rules or who fall within the provisions of Sub-Rule 4(3), shall be entitled to remain as members.
- (2) Members no longer entitled to remain as members shall cease to be members once removed from the Register of Members pursuant to Rule 18.
- (3) The National Council, the National Executive, a Branch Council or a Branch Executive may confer Honorary Life Membership on any member who has given meritorious service to the Union and its members. Such Life Membership shall commence on and from that member's retirement, resignation or cessation of eligibility to remain a member.

An Honorary Life Member shall be exempt from payment of subscriptions, fees, fines and levies but he/she shall not be entitled to vote in any election or ballot or at any meeting within the Union, or to nominate for or hold any Office within the Union. Honorary Life Membership shall not be regarded as financial membership for the purposes of these Rules.

13 - FINANCIAL STATUS OF MEMBERS

- (1) A member is unfinancial if he/she is more than thirteen weeks in arrears in his/her subscriptions or in the payment of any fees, fines or levies imposed in accordance with the Rules. Conversely, a member is financial if he/she is not more than thirteen weeks in arrears in his/her subscriptions or in the payment of any fees, fines or levies imposed in accordance with the Rules.
- (2) A member, while unfinancial, shall not be eligible for any of the rights and privileges of membership including the right to vote in any election or ballot of members or, to attend or vote at any meeting within the Union or to nominate for or hold any Office within the Union.
- (3) Notwithstanding the provisions of Sub-Rule 13(1), a member who is unfinancial shall not become financial until he/she pays all arrears due.
- (4) Where a member who is unfinancial makes a part payment or payments in relation to subscriptions, fees, fines and/or levies outstanding, such payment or payments shall be applied to the amounts owing in the same order in which such arrears were incurred with the amount outstanding longest being discharged first.

14 - RESIGNATION FROM MEMBERSHIP

- (1) A member may resign from membership of the Union by written notice addressed and delivered to the Secretary of his/her Branch.
- (2) A notice of resignation from membership of the Union takes effect:-
 - (a) where the member ceases to be eligible to become a member of the Union:-
 - (i) on the day on which the notice is received by the Union; or
 - (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;

whichever is later; or
 - (b) In any other case:-
 - (i) at the end of two weeks; or
 - (ii) on the day specified in the notice;

whichever is later.

15 - DUTIES OF MEMBERS

- (3) Any subscriptions, fees, fines and levies owing but not paid by a former member of the Union in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the Union in a Court of competent jurisdiction, as a debt due to the Union.
- (4) A notice delivered to the Branch Secretary shall be deemed to have been received by the Union when it was delivered.
- (5) A notice of resignation that has been received by the Union is not invalid because it was not addressed and delivered to the Branch Secretary.
- (6) A resignation from membership of the Union is valid even if it is not effected in accordance with this Rule, if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.
- (7) If a financial member retires from employment permanently or changes employment to a position not covered under these rules by the union, the member shall be entitled to transfer to the status of Health Fund Member.

15 - DUTIES OF MEMBERS

A member of the Union shall not:-

- (i) contravene or fail to observe any of the Rules of the Union;
- (ii) contravene or fail to observe any lawful resolution of the Governing Bodies of the Union;
- (iii) give false or misleading information to the Union on any matter relating to the objects or activities of the Union;
- (iv) divulge any of the confidential business of the Union to someone not entitled to know such information;
- (v) obstruct the Union or its Governing Bodies or its Office Bearers or Committees in the performance of their functions under the Rules;
- (vi) defraud or attempt to defraud the Union;
- (vii) misappropriate any property of the Union;
- (viii) make a false charge against a fellow member;
- (ix) insult or behave in an offensive manner towards any Office Bearer or employee of the Union who is acting in the course of his/her duties;
- (x) violate or attempt to violate the terms of any applicable industrial Award or Agreement or enter into or attempt to enter into any agreement with any employer or an employee thereof contrary to the provisions of an applicable Award or Agreement;
- (xi) fail, without reasonable excuse, to attend any meeting of the Governing Bodies or Committees of the Union when summoned by such a body;

16 - DISCIPLINARY ACTION AGAINST MEMBERS

- (1) A member may be charged by another member with a breach of his/her duties as a member. Such charge shall be in writing and signed by the member laying the charge and delivered to the Branch Secretary of the Branch to which the member charged belongs.
- (2) Upon receipt of the charge, the Branch Secretary shall investigate the matter and, unless he/she decides that the matter is without substance, he/she shall determine whether the subject matter of the charge is a matter extending beyond one Branch Division or whether it is a Branch Divisional matter and, in the former case, he/she shall refer the charge to the Branch Executive for determination and, in the latter case, he/she shall refer the matter to the Branch Divisional Committee for determination.
- (3) The Branch Executive may, where it considers it appropriate in a particular case, delegate its disciplinary powers to a Sub-Branch Committee. A Branch Divisional Committee may, where it considers it appropriate in a particular case, delegate its disciplinary powers to a Branch Sub-Divisional Committee. Any delegation shall not, however, include the power to expel, suspend or fine.
- (4) The Branch Executive or a Branch Divisional Committee or a Sub-Branch Committee or a Branch Sub-Divisional Committee, as the case may be, shall not find a member guilty of a breach of his/her duties as a member unless he/she has been given written notice and particulars of the charge made sent to his/her last known address and has been given twenty one (21) days to present any defence to the charge.
- (5) Subject to Sub-Rule 16(9), the Branch Executive or a Branch Divisional Committee as the case may be, shall have power to expel or suspend from membership or to impose a fine not exceeding \$100.00 or to rebuke or caution any member found guilty of a failure to fulfil his/her duties as a member. A Sub-Branch Committee or Branch Sub-Divisional Committee to which disciplinary powers have been delegated may rebuke or caution any member found guilty of a failure to fulfil his/her duties as a member.
- (6) A member found guilty may appeal in relation to the finding of guilt and/or the severity of the penalty imposed. Where a decision has been made by the Branch Executive or the Branch Divisional Committee an appeal lies to the Branch Council. Where the decision has been made by a Sub-Branch Committee then an appeal lies to the Branch Executive with a further right of appeal to the Branch Council. Where the decision has been made by a Branch Sub-Divisional Committee, then an appeal lies to the Branch Divisional Committee with a further right of appeal to the Branch Council.
- (7) A member shall have a further right of appeal from the Branch Council to the National Executive. The decision of the National Executive shall be final.
- (8) A right of appeal exercised pursuant to Sub-Rules 16(6) and 16(7) shall be exercised by written notice to the Branch Divisional Secretary, the Branch Secretary or the National Secretary, as the case may be, within twenty-eight days of receipt by the member of written advice of the decision of the Sub-Branch Committee, Branch Sub-Divisional Committee, the Branch Divisional Committee or the Branch Executive, as the case may be. Where the member is the Branch Divisional Secretary, the Branch Secretary or the National Secretary, then the Notice of Appeal shall be sent to the Branch Divisional President, the Branch President or the National President, as the case may be.

18 - PURGING THE REGISTER AND CESSATION OF MEMBERSHIP

- (9) Where a member is also an Office Bearer, he/she shall not be suspended or expelled from membership pursuant to this Rule, unless and until he/she has first been removed as an Office Bearer in accordance with these rules.

17 - REGISTER OF MEMBERS AND OFFICE BEARERS

- (1) A Register of the names and the postal addresses of members of the Union within each Branch shall be kept by the Secretary of each Branch. The Register shall show the National and the Branch Division and, where applicable, the Sub-Branch, Branch Sub-Division, District or Region to which a member belongs and the membership category and financial status of the member.
- (2) A Register of the names, postal addresses and occupations of all Branch Office Bearers shall be kept by the Secretary of each Branch.
- (3) The National Secretary shall be entitled, on demand, to obtain copies of any or all information on a Branch Register and to inspect such Register at any time.
- (4) A Register of the names, postal addresses and occupations of all National Office Bearers shall be kept by the National Secretary.

18 - PURGING THE REGISTER AND CESSATION OF MEMBERSHIP

- (1) The Branch Secretary shall as soon as practicable after a Notice of Resignation takes effect pursuant to the provisions of Rule 14, remove the names and details of the persons who have resigned from the Register of Members.
- (2) The Branch Secretary shall from time to time, as directed by the Branch Executive in accordance with the policies determined from time to time by the National Council, and in accordance with the provisions of Sub-Rule 18(3), remove from the Register of Members, members who are unfinancial and members who have ceased to be entitled to remain as members or have been expelled from membership under these Rules. Removal from the Register shall not in any way waive, reduce or affect a member's liability for any arrears due to the Union.
- (3) The Branch Secretary shall give a member one month's notice in writing to the member's last known address of the intention to remove his/her name from the Register pursuant to the provisions of Sub-Rule 18(2). The notice shall specify the reason or reasons why a member is to be removed from the Register. Where at the expiration of the one month notice period, the member has not provided satisfactory evidence as to why he/she should not be removed from the Register, then he/she shall be so removed and his/her membership shall cease from the date of removal. The Branch Secretary shall advise the member in writing of his/her removal. Any member shall have a right of appeal against his/her removal to the Branch Executive. Such right must be exercised within fourteen (14) days of receipt of the written advice from the Branch Secretary. A member lodging an appeal shall be deemed to continue as a member pending determination of his/her appeal.

19 - RECOVERY OF DUES

The Branch Secretary shall have power to take action in the name of the Union in a Court of competent jurisdiction to recover any subscriptions, fees, fines or levies due from any member and shall take such action when instructed to do so by the Branch Executive.

20 - TRANSFER OF MEMBERS BETWEEN BRANCHES

- (1) Where a member transfers from one Branch to another, he/she shall be provided with a statement by the Branch Secretary of the Branch from which he/she is transferring which shows the member's membership history and financial position. The Branch Secretary shall forward a copy of that statement to the Secretary of the Branch to which the member is transferring.
- (2) The Branch from which the member is transferring shall be entitled to receive all subscriptions, fees, fines or levies up until the date of the member's departure from the Branch. The Branch to which the member is transferring shall be entitled to all subscriptions, fees, fines and levies on and from the date of departure.

PART IV – FINANCES**21 - UNION FUNDS**

- (1) The Funds of the Union shall comprise the National Fund, the Branch Funds and the Branch Divisional Funds. Branch Divisional Funds including composite Branch Divisional Funds may be established in relation to all or any Branch Divisions.
- (2) The National Fund shall be managed and controlled by the National Council and the National Executive and shall consist of:-
 - (i) any real or other property of which the National Council and the National Executive by these Rules or by any established practice not inconsistent with these Rules, has, or in the absence of any limited term lease, bailment or arrangement would have, the right of custody, control or management;
 - (ii) all amounts due from Branches as capitation fees;
 - (iii) all entrance fees, fines and levies imposed by the National Council or the National Executive in accordance with these Rules;
 - (iv) any interest, rents, dividends or other income derived from the investment or use of the Fund;
 - (v) any superannuation or long service leave or other fund operated or controlled by the National Organisation for the benefit of its Office Bearers or employees;
 - (vi) any sick pay fund, accident pay fund, funeral fund, tool fund or like fund operated or controlled by the National Organisation for the benefit of members;

(vii) any property acquired wholly or mainly by expenditure of the monies of the Fund or derived from other assets of the Fund; and

(viii) the proceeds of any disposal of part of the Fund;

and shall be used for the administration and management of the National Organisation and for any other purposes that the National Council or the National Executive may from time to time direct for the attainment of any of the objects of the Union.

(3) The property comprising the National Fund shall be held, registered, deposited, invested, or otherwise dealt with, in the name of the Union.

(4) A Branch Fund shall be managed and controlled by the Branch Council and Branch Executive and shall consist of:-

(i) any real or other property of which the Branch by these Rules or by any established practice not inconsistent with these Rules, has, or in the absence of any limited term lease, bailment or arrangement would have, the right of custody, control or management;

(ii) the amount of subscriptions received by the Branch less any amount payable to the National Organisation by way of capitation fees.

(iii) the amount of any fines or levies imposed by the Branch Council or the Branch Executive;

(iv) any interest, rents or dividends derived from the investment or use of the Fund;

(v) any superannuation or long service leave or other fund operated or controlled by the Branch for the benefit of its Office Bearers or employees;

(vi) any sick pay fund, accident pay fund, funeral fund, tool benefit fund or like fund operated or controlled by the Branch for the benefit of its members;

(vii) any property acquired wholly or mainly by expenditure of the monies of the Fund or derived from other assets of the Fund; and

(viii) the proceeds of any disposal of part of the Fund;

and shall be used for the administration and management of the Branch and for any other purpose that the Branch Council or the Branch Executive may from time to time direct towards the attainment of any of the objects of the Union within the Branch.

(5) All liabilities arising out of the administration and management of the Branch including those liabilities arising from the control and management of real property within the Branch Fund, shall be the responsibility of the Branch.

(6) All real property forming part of a Branch Fund shall be held and dealt with in the name of the Union, but shall only be dealt with at the request of and in accordance with the instructions of, the relevant Branch Council or Branch Executive.

- (7) The property, other than real property, comprising the Branch Fund shall be held, deposited, invested or otherwise dealt with in the name of the Branch provided that, where it is necessary or advisable that any such property be held or dealt with by Trustees on behalf of the Branch, then the Branch President and the Branch Secretary shall be joint Trustees.
- (8) Any Branch Divisional Fund shall be managed and controlled by the Branch Divisional Committee and shall consist of:-
- (i) any real or other property of which the Branch Division by these Rules or by any established practice not inconsistent with these Rules, has, or in the absence of any limited term lease, bailment or arrangement would have, the right of custody, control or management;
 - (ii) any monies received from the Branch;
 - (iii) any sick pay fund, funeral fund, tool benefit fund or like fund operated or controlled by the Branch Division for the benefit of its members;
 - (iv) any interest, rents or dividends derived from the investment or use of the Fund;
 - (v) any property acquired wholly or mainly by expenditure of the monies of the Fund or derived from other assets of the Fund; and
 - (vi) the proceeds of any disposal of part of the Fund
- (9) All liabilities arising out of the administration and management of the Branch Division including those liabilities arising from the control and management of real property within the Branch Divisional Fund, shall be the responsibility of the Branch Division.
- (10) Notwithstanding the provisions of Sub-Rules 21(8) and 21(9), where all or part of the expenses of the administration and management of a Branch Division are met from the Branch Fund, the Branch shall be entitled to be reimbursed for such expenditure from any interest, rents or dividends derived from the investment or use of the Branch Divisional Fund of that Branch Division.
- (11) All real property forming part of a Branch Divisional Fund shall be held and dealt with in the name of the Union, but shall only be dealt with at the request of and in accordance with the instructions of, the relevant Branch Divisional Committee as ratified by the Branch Council.

- (12) In addition to the requirements of Rule 21(11), in the case of the Victorian Locomotive Division, all real property forming part of the Branch Divisional Fund of the Victorian Locomotive Division may only be disposed of with the approval of at least 70% of eligible voters of the membership of the Victorian Locomotive Division who vote in a ballot, provided that such approval will be obtained in advance of any disposition in the following manner;
- (i) The Branch Divisional Committee shall appoint a Returning Officer for the ballot, who will conduct the ballot, including by:
 - (a) determining the dates for the opening and closing of the ballot,
 - (b) determining the roll of eligible voters (being those financial members of the Victorian Locomotive Division at the last date on which the ballot papers are issued;
 - (c) counting the ballot; and
 - (d) declaring the ballot
 - (ii) The ballot will be conducted by pre-paid postal ballot;
 - (iii) At least 28 days before the ballot, the ballot will be advertised in the union journal, the Victorian Locomotive Division magazine or through a circular issued to all eligible voters, with a brief explanation of the proposed disposal and details of the method, and dates for voting;
 - (iv) Ballot papers will be issued to all eligible voters at least 21 days in advance of the closure of the ballot;
 - (v) The Returning Officer will notify members of the Victorian Locomotive Division of the result of the ballot in the union journal, the Victorian Locomotive Division magazine or through a circular issued to all eligible voters as practicable after declaring the result.
- (13) The property, other than real property, comprising a Branch Divisional Fund shall be held, deposited, invested or otherwise dealt with in the name of the Branch Division provided that, where it is necessary or advisable that any property be held or dealt with by Trustees on behalf of a Branch Division then the Branch Divisional President and the Branch Divisional Secretary shall be joint Trustees.
- (14) A Branch Council, with the consent of the relevant Branch Divisional Committees, may establish a composite Branch Divisional Fund embracing two or more Branch Divisions. A composite Branch Divisional Fund may be established only in relation to real property or it may embrace both real property and some or all of the other combined property of the relevant Branch Divisions. The provisions of Sub-Rules 21(8), 21(9), 21(10), 21(11) and 21(12), shall apply in relation to such composite Branch Divisional Funds except that references to the Branch Division shall be read as references to the relevant Branch Divisions jointly and references to the Branch Divisional Committee shall be read as references to the Branch Divisional Committees jointly. Further, where any property is held on trust pursuant to the provisions of Sub-Rule 21(12), the relevant Branch Divisional Presidents and the relevant Branch Divisional Secretaries shall together be joint Trustees.

22 - CAPITATION FEES, ENTRANCE FEES AND LEVIES

- (15) For the purposes of Sub-Rule 21(13), within the Victorian Branch, a Regional Committee shall be regarded as a Branch Divisional Committee. Further, each Regional Committee may elect a Trustee by and from its members to be a joint Trustee.

(16) NATIONAL/BRANCH POLICIES AND PROCEDURES

The Union and its Branches will develop, implement and retain policies and procedures relating to the expenditure of the union which include:

- (a) A reaffirmation of appropriate values;
- (b) Financial oversight and planning;
- (c) Financial policies and procedures;
- (d) Implementation of policies and procedures;
- (e) Reporting and transparency to members;
- (f) Credit Cards;
- (g) Employment and Remuneration;
- (h) Conflicts of interest;
- (i) Broader aspects of good governance; and
- (j) Training standards and programs.

22 - CAPITATION FEES, ENTRANCE FEES AND LEVIES

- (1) In addition to setting subscription rates, the National Council may set an entrance fee to be paid by all members upon joining the Union. Further, the National Council may from time to time, strike a levy payable by all members of the Union.
- (2) A Branch Council may from time to time strike a levy payable by all members of the Branch.
- (3) Fourteen and a half (14 ½) per cent of the subscription income received by a Branch or such other percentage as is determined from time to time by the National Council, shall be payable as capitation fees by each Branch to the National Organisation.
- (4) All monies payable by members of the Union by way of entrance fees, subscriptions, levies or fines shall be paid to and collected by the Secretary of the Branch to which the member belongs. Each Branch Secretary shall receive and deal with such monies in accordance with these Rules.
- (5) The Secretary of each Branch shall promptly remit all monies due to the National Organisation as capitation fees, entrance fees or National levies. Capitation fees shall be paid in monthly instalments no later than the last day of each month.
- (6) Where a Branch is more than three months in arrears in the payment of any capitation fee instalment or in the remission of entrance fees or National levies, then the rights of the Branch and the Branch representatives to participate in the affairs of the National Organisation, including the right to attend and vote at meetings of National Governing Bodies, shall be suspended until such time as all monies owing are paid.

23 - DISBURSEMENT OF FUNDS

- (1) All cheques and written authorisations for the transfer and/or disbursement of funds from the National Union Fund shall be signed by the National Secretary together with the Assistant National Secretary. The National Executive may authorise the Assistant National Secretary to sign in place of the National Secretary in his or her absence together with either the National President, or an authorised Vice-President.
- (2) The funds of the National Union Fund, shall only be disbursed or otherwise dealt with, upon a resolution of the National Council or the National Executive. Provided that for the expenditure of the funds of the Union on general administration of the Union and for purposes reasonably incidental to the general administration of the Union, the prior approval of Council or Executive will not be necessary before such cheques or written authorisation for the transfer and/or disbursement of funds from the Union Fund are signed and accounts paid.
- (3) All cheques and written authorisations for the transfer and/or disbursement of funds from the Branch Union Fund shall be signed by the Secretary together with either the President, Senior Vice-President, Junior Vice-President or Assistant Secretary. The Branch Executive may authorise the Assistant Secretary to sign in place of the Secretary in his or her absence together with either the President, Senior Vice-President or Junior Vice-President.
- (4) The funds of the Branch Union Fund, shall only be disbursed or otherwise dealt with, upon a resolution of the Council or the Executive. Provided that for the expenditure of the funds of the Union on the general administration of the Union and for purposes reasonably incidental to the general administration of the Union, the prior approval of Council or Executive will not be necessary before such cheques or written authorisation for the transfer and/or disbursement of funds from the Union Fund are signed and accounts paid.
- (5) All cheques and written authorisations for the transfer and/or disbursement of funds from a Branch Divisional Fund shall be signed by the Branch Divisional Secretary together with the Branch Divisional President, Branch Divisional Vice President or Branch Divisional Assistant Secretary. The Branch Divisional Executive may authorise the Branch Divisional President to sign in place of the Branch Divisional Secretary in his or her absence together with the Branch Divisional Vice-President and one (1) other member of the Branch Divisional Committee.
- (6) The funds of a Branch Divisional Fund, shall only be disbursed or otherwise dealt with, upon a resolution of the Branch Divisional Committee, provided that for the expenditure of the funds of a Division on general administration of the Division and for purposes reasonably incidental to the general administration of the Division, the prior approval of the Branch Divisional Committee will not be necessary before such cheques or written authorisations for the transfer and/or disbursement of funds from a Branch Divisional Fund are signed and accounts paid.
- (7) Any resolution of a Branch Divisional Committee dealing with real property shall be subject to ratification by the Branch Council pursuant to rule 21 of these Rules.

24 - LOANS, GRANTS OR DONATIONS

- (8) All cheques and written authorisations for the transfer and/or disbursement of funds from a composite Branch Divisional Fund shall be signed by all relevant Branch Divisional Secretaries. The relevant Branch Divisional Committees may jointly authorise other members of such Branch Divisional Committees to sign in place of the Branch Divisional Secretaries in the absence of one (1) or other of such office bearers.
- (9) The funds of a composite Branch Divisional Fund, shall only be disbursed or otherwise dealt with, upon resolutions of all relevant Branch Divisional Committees. Provided that for the expenditure of the funds of the composite Branch Divisions on the general administration of the composite Branch Divisions and for the purposes reasonably incidental to the General Administration of the composite Branch Divisions, the prior approval of the relevant Branch Divisional Committees will not be necessary before such cheques or written authorisations for the transfer and/or disbursements of funds from the composite Divisional Fund are signed and accounts paid.
- (10) Any resolutions of the relevant Branch Divisional Committees dealing with real property shall be subject to ratification by the Branch Council pursuant to rule 21 of these Rules.
- (11) Where the Branch Executive authorises, officers and/or employees of the Union may be issued with credit cards for the disbursement of funds from the Union Fund, a Divisional Fund or a composite Divisional Fund but only in accordance with any policy or policies of the Union relating to the use of credit cards in force from time to time.

24 - LOANS, GRANTS OR DONATIONS

- (1) No loans, grants or donations shall be made by any Governing Body or other Committee within the Union other than the National Executive or a Branch Executive.
- (2) A loan, grant or donation of an amount exceeding \$1,000.00 shall not be made by the National Executive or a Branch Executive unless the Executive:-
 - (i) has satisfied itself:-
 - (a) that the making of the loan, grant or donation would be in accordance with these Rules; 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.

25 - AUDITORS

- (1) The National Council shall appoint biennially, a duly qualified and competent auditor or firm of auditors who shall audit the accounts of the National Organisation and provide a report, audited accounts and such further information and statements as may be required in accordance with the RO Act, in relation to each financial year or in relation to any other period that the National Council or the National Executive may determine.
- (2) An auditor or firm of auditors appointed by the National Council may be removed during the term of appointment by resolution of the Council and in accordance with the RO Act.
- (3) A Branch Council shall appoint biennially, a duly qualified and competent auditor or firm of auditors who shall audit the Branch accounts (including Branch Divisional accounts) and provide a report, audited accounts and such further information and statements as may be required under any relevant legislation, in relation to each financial year or in relation to any other period that the Branch Council or the Branch Executive may determine.
- (4) An auditor or firm of auditors appointed by the Branch Council may be removed during the term of appointment by resolution of the Council.

26 - FINANCIAL YEAR

The financial year for the Union shall be the period commencing on January 1 in any year and ending on December 31 in the same year.

27 - BOOKS AND ACCOUNTS

The National Secretary and each Branch Secretary shall ensure that adequate books and accounts are kept and that the provisions of the RO Act, or any other relevant legislation are complied with in relation to the maintenance, form, lodgement and distribution of financial records. Further, each Branch Secretary shall provide the National Secretary with a copy of the audited Branch Accounts each year.

PART V - NATIONAL GOVERNING BODIES AND OFFICE BEARERS**28 - NATIONAL COUNCIL**

- (1) The National Council shall be the highest deliberative body in the Union. Subject to these Rules, the National Council shall have power to do all such things as are within the objects of the Union or incidental thereto including:-
- (i) to authorise the formation of Branches and National Divisions and to determine the boundaries and/or scope thereof;
 - (ii) to dissolve Branches and National Divisions;
 - (iii) to determine the National policy of the Union;
 - (iv) to determine the salaries and conditions of employment of paid Office Bearers;
 - (v) to fix the allowances as provided in Rule 66;
 - (vi) to determine subscription levels, entrance fees and National levies;
 - (vii) to determine Branch capitation fees;
 - (viii) to establish any special fund or funds to achieve any of the objects of the Union;
 - (ix) to settle all disputes between Branches or National Divisions;
 - (x) to intervene in the affairs of a Branch or a Division (including a Branch Division) to ensure compliance with the Rules or the National policy of the Union or decisions of the National Council or the National Executive;
 - (xi) to interpret the Rules and to determine any matter on which the Rules are silent;
 - (xii) to make, alter, amend or rescind these Rules;
 - (xiii) to hear appeals regarding disciplinary action taken against any National Office Bearer;
 - (xiv) to expend monies from the National Fund for any of the objects of the Union;
 - (xv) to appoint and dismiss a National Returning Officer;
 - (xvi) to appoint and dismiss a National auditor or firm of auditors.
 - (xvii) subject to ratification by a plebiscite of the members, dissolve the Union.

- (2) The National Council shall comprise the National President, National Vice-President (Rail), the National Vice-President (Road), the National Vice-President Affirmative Action (Women), the National Secretary, the Assistant National Secretary, the Assistant National Secretaries (Divisional), the Secretaries of each Branch, the Branch Delegates to National Executive as specified in Sub-Rule 29(2) and the National Divisional Delegates from the Branch to the National Council determined in accordance with Sub-Rule 28(3).
- (3) The members of each National Division within each Branch shall be entitled to elect one Delegate to the National Council for each one thousand (1,000) members or part thereof provided that where the number of members of a National Division within a Branch is less than one hundred (100) there shall be no entitlement to a Delegate. The number of Delegates to which the members of a National Division within a Branch are entitled, shall be determined on the basis of the number of financial members of the National Division within the Branch at the end of the quarter immediately preceding the date for the opening of nominations for the election of Delegates.
- (4) The National Council shall meet in Ordinary Session once every two years at such time and place as the National Council may determine or, in the absence of a decision by the National Council, as the National Executive may determine. A Special Meeting of the National Council may be convened by the National Executive and shall be convened upon receipt of a written request from at least three Branch Executives.
- (5) National Council members or the National Executive or any Branch Council or any Branch Executive or any National Divisional Committee may place a matter on the agenda for a meeting of the National Council.
- (6) Where an Ordinary Meeting of the National Council has been scheduled or a Special Meeting has been called, the National Secretary shall send a Notice of Meeting together with an agenda to each member of the Council entitled to attend, not less than fourteen days prior to the meeting.
- (7) A quorum for a meeting of the National Council shall be a majority of the members of the Council entitled to attend.
- (8) Subject to Sub-Rule 28(9), each member of the National Council shall have one vote. A resolution shall be carried if a majority of members present and voting, vote in favour.
- (9) Where a person, to the extent permitted by these Rules, holds more than one Office on the National Council, he/she shall nonetheless only be entitled to exercise one vote.
- (10) Notwithstanding anything elsewhere contained in these Rules, a meeting of the National Council may be held via telephone conference or video conference.

29 - NATIONAL EXECUTIVE

- (1) The National Executive shall be the Committee of Management of the Union. Subject to these Rules, to the policies and decisions of the National Council and to the review of its decisions by the National Council, it shall have the care, control, management and superintendence of the activities of the Union and between meetings of the National Council, it may exercise all or any of the powers and functions of the National Council other than the power to make, alter or rescind these Rules but it shall not act contrary to any policy or decision of the National Council and shall not rescind, alter, vary or revoke any such policy or decision. All decisions within the powers of the National Executive shall have full force and effect unless and until disallowed by the National Council.
- (2) The National Executive shall comprise the National President, the National Vice-President (Rail), the National Vice-President (Road), the National Vice-President Affirmative Action (Women), the National Secretary, the Assistant National Secretary, the Assistant National Secretaries (Divisional) and the Secretaries of each Branch within the Union together with Delegates from the Branches as follows:-

New South Wales Branch	- 3 delegates
Queensland Branch	- 2 delegates
Victorian Branch	- 2 delegates
Western Australia Branch	- Nil
South Australian and Northern Territory Branch	- Nil
Tasmanian Branch	- Nil
- (3) The National Executive shall meet in Ordinary Session at least three times in each two year period at such time and place as the National Executive or, in the absence of a decision by the National Executive, the National President and the National Secretary jointly, shall determine. A Special Meeting of the National Executive may be convened by the National President and the National Secretary jointly and a Special Meeting shall be convened upon receipt of a written request from at least three Branch Executives.
- (4) National Executive members or any Branch Executive or any National Divisional Committee may place a matter on the agenda for a meeting of the National Executive.
- (5) Where an Ordinary Meeting of the National Executive has been scheduled or where a Special Meeting has been called, the National Secretary shall forward a Notice of Meeting together with an agenda to each member of the National Executive entitled to attend, not less than seven days prior to the date of a meeting.
- (6) A quorum for a meeting of the National Executive shall be a majority of the members of the National Executive entitled to attend.
- (7) Subject to Sub-Rule 29(8), members of the National Executive shall have one vote. A resolution shall be carried if a majority of members present and voting, vote in favour.

31 - NATIONAL OFFICES

- (8) Where a person, to the extent permitted by these Rules, holds more than one Office on the National Executive, he/she shall nonetheless only be entitled to exercise one vote.
- (9) Notwithstanding anything elsewhere contained in these Rules, a meeting of the National Executive may be held via telephone conference or video conference.

30 - BALLOTS OF THE NATIONAL COUNCIL AND THE NATIONAL EXECUTIVE

- (1) Between meetings of the National Council or the National Executive, the decision of the Council or the Executive, as the case may be, may be determined by ballot.
- (2) A decision to hold a ballot shall be made by the National President and the National Secretary jointly.
- (3) Where a decision has been made to hold a ballot, the National Secretary shall despatch a ballot paper clearly setting out the matter(s) for decision, together with any relevant material, to each member of the Council or the Executive, as the case may be. The National Secretary shall advise each member of the date by which ballot papers must be returned, such date to be not less than seven days nor more than twenty-one days from the date the ballot papers are despatched. Ballot papers not received by the National Secretary by the date specified shall be disregarded provided that a question shall only be carried if the number of ballot papers returned are sufficient to meet the quorum provisions for meetings of the National Council or the National Executive under these Rules and a majority of the ballot papers returned record a vote in the affirmative.
- (4) The National Secretary shall provide a written report to members of the National Executive or the National Council, as the case may be, as soon as practicable after the completion of the ballot. The National Secretary shall retain all ballot papers for tabling and report at the next meeting of the National Executive or the National Council, as the case may be.

31 - NATIONAL OFFICES

- (1) The National Offices are:-
 - National President
 - National Vice-President (Rail)
 - National Vice-President (Road)
 - National Vice-President (Affirmative Action - Women)
 - National Secretary
 - Assistant National Secretary
 - Assistant National Secretaries (Divisional)
 - Branch Delegates to the National Executive
 - National Divisional Delegates from the Branch to the National Council
 - Representatives to a National Divisional Committee
- (2) The Office of National Secretary and Assistant National Secretary shall be paid positions. Such Office Bearers shall be elected every four years in accordance with the provisions of Part VIII of these Rules and shall hold office until his/her successor is declared elected.

33 - OTHER NATIONAL OFFICE BEARERS

- (3) National Offices other than those as specified in Sub-Rule 31(2) shall be honorary positions. Such Office Bearers shall be elected every four years in accordance with the provisions of Part VIII of these Rules and shall hold office until their successors are declared elected.

32 - NATIONAL SECRETARY, ASSISTANT NATIONAL SECRETARY AND ASSISTANT NATIONAL SECRETARIES (DIVISIONAL)

- (1) The National Secretary and Assistant National Secretary shall be elected by a secret ballot of all the financial members of the Union.
- (2) There shall be an Assistant National Secretary (Divisional) for each National Division established pursuant to Rule 6. An Assistant National Secretary (Divisional) shall be elected by a secret ballot of all financial members of the relevant National Division.
- (3) To be eligible to nominate for an Office covered by this Rule, a candidate must be a member of the Union and have been continuously financial for a period of not less than six months immediately preceding the date on which nominations open. To be "continuously financial", a candidate must not, at any stage within the six month period, have been an unfinancial member.
- (4) In addition to the requirements specified in Sub-Rule 32(3), a candidate for an Office of Assistant National Secretary (Divisional) must, unless he/she is a candidate seeking re-election, have been employed in the work function represented by the National Division for a period of not less than twelve months immediately preceding the date on which nominations open.

33 - OTHER NATIONAL OFFICE BEARERS

- (1) The National President shall be elected by a secret ballot of all the financial members of the Union. The National Vice-President (Rail) shall be elected by a secret ballot of all the financial members of the Union, with the exception of members from the Bus and Tram Division. The National Vice President (Road) shall be elected by a secret ballot of all the financial members of the Bus and Tram Division only. The National Vice President (Affirmative Action - Women) shall be elected by a secret ballot of all the financial women members of the Union.
- (2) Branch Delegates to the National Executive shall be elected by a secret ballot of all the financial members of the Branch.
- (3) National Divisional Delegates from the Branch to the National Council shall be elected by a secret ballot of all the financial members of the National Division within the Branch.
- (4) To be eligible to nominate for a National Office other than those dealt with in Rule 32, a candidate must be a financial member on the date on which nominations open. In addition, a candidate for the Office of National Divisional Delegate from the Branch to the National Council must be a member of the relevant National Division and the relevant Branch on such date. Further, a candidate for the Office of Branch Delegate to the National Executive must be a member of the relevant Branch on such date.

35 - DUAL OFFICES AT DIFFERENT DECISION MAKING LEVELS

- (5) To be eligible to nominate for the Office of National Vice President (Rail) a candidate must be a financial member of any Division, with the exception of the Bus and Tram Division, on the date on which nominations open.
- (6) To be eligible to nominate for the office of National Vice President (Road) a candidate must be a financial member of the Bus and Tram Division, on the date on which nominations open.
- (7) To be eligible to nominate for the Office of National Vice President (Affirmative Action - Women) a candidate must be a financial woman member on the date on which nominations open.

34 - DUAL NATIONAL OFFICES

- (1) Except in the case of an appointment under the provisions of Rules 78 or 79, no person shall simultaneously hold more than one of the National Offices specified in Sub-Rule 31(1) except for the Offices of Branch Delegates to the National Executive, National Divisional Delegates from the Branch to the National Council and Representatives to a National Divisional Committee. Where a person already holding a National Office is elected to another National Office, then he/she is deemed to have resigned from the Office already held.
- (2) Where a person holds a particular National Office and by reason of holding such Office, he/she holds another National Office, he/she shall not be regarded as holding more than one National Office for the purposes of this Rule.

35 - DUAL OFFICES AT DIFFERENT DECISION MAKING LEVELS

- (1) Except as provided in Sub-Rule 35(2), nothing in these Rules shall be construed as preventing a person holding a National Office while simultaneously holding a Branch Office.
- (2) Except in the case of an appointment under the provisions of Sub-Rule 78 or 79, and except as provided in Parts X to XVI of these Rules, no person shall simultaneously hold more than one paid Office within the Union. Where a person already holding a paid Office at any level is elected to another paid Office at any level, then he/she is deemed to have resigned from the Office already held.

36 - DUTIES OF THE NATIONAL PRESIDENT

- (1) In addition to any duties specified elsewhere in these Rules, the National President shall preside at all meetings of the National Council and the National Executive. He/she shall preserve order and decorum at such meetings and shall confirm the minutes thereof. He/she shall ensure that the Rules of the Union are adhered to.
- (2) The National President is empowered to give an interpretation of these Rules and to determine any dispute involving the application or requirements of the Rules and in any such case his/her decision shall be final and conclusive unless over-ruled by the National Council. All rulings made by the National President shall be circulated in writing to members of the National Council as soon as practicable following the ruling. Further, the National Secretary shall maintain a record of all rulings by the National President.
- (3) At all meetings of the Union at which he/she presides, the National President shall have a deliberative but not a casting vote.

37 - DUTIES OF NATIONAL VICE-PRESIDENTS

In addition to any duties specified elsewhere in these Rules, the National Vice-Presidents shall assist the National President in the conduct of his/her duties and, in the absence of the National President, the National Vice-Presidents shall deputise for him/her.

The National Vice President (Affirmative Action - Women) shall promote, and work for the involvement of women members within the Union.

38 - DUTIES OF NATIONAL SECRETARY

The National Secretary shall be the Principal Officer and Treasurer of the Union. Between meetings of the National Council and the National Executive, he/she shall, subject to these Rules and to the policies and decisions of the National Council and the National Executive, conduct and manage the affairs of the Union and do all things necessary to be done by or on behalf of the Union. Without limiting the generality of the foregoing, he/she shall:-

- (i) discharge all duties assigned to him/her by these Rules, the National Council or the National Executive;
- (ii) summon and attend all meetings of the National Council and the National Executive;
- (iii) attend to all National correspondence;
- (iv) issue or authorise press statements and provide media comment on behalf of the Union.
- (v) be responsible for the safe custody of the Union seal, documents, securities and accumulated funds;

38 - DUTIES OF NATIONAL SECRETARY

- (vi) prepare, keep and/or file or cause to be prepared, kept and/or filed, all documents and records required under the provisions of the RO Act and the RO Regulations and any other relevant legislation;
- (vii) receive all monies belonging to the National Fund and deposit same in a bank on behalf of the Union as soon as practicable;
- (viii) disburse National funds in accordance with these Rules;
- (ix) ensure that National financial records are maintained and that National annual accounts are prepared and audited;
- (x) monitor the accounts and other affairs of the Branches and the Divisions and for this purpose have access, whenever requested, to Branch and Divisional documents and financial records;
- (xi) prepare or cause to be prepared all necessary documents for the National Council and the National Executive including the minutes of meetings;
- (xii) prepare or cause to be prepared regular financial statements for the National Council and the National Executive;
- (xiii) prepare or cause to be prepared a yearly report to Branches and Divisions on the activities of the National Organisation;
- (xiv) ensure that Branch Secretaries maintain Registers of Members and Office Bearers and himself/herself maintain National records based thereon;
- (xv) co-ordinate the activities of Branches and National Divisions;
- (xvi) control and supervise the National Office and its staff including the appointment and termination of such staff;
- (xvii) initiate legal, industrial or other proceedings on behalf of the Union before any Court, Commission, Board or Tribunal; and
- (xviii) be an ex-officio member of any National Governing Body and be entitled to attend any meeting of any Branch Governing Body;
- (xix) be responsible to the National Council and the National Executive for the proper performance of his/her duties.

38A - DUTIES OF ASSISTANT NATIONAL SECRETARY

- (1) Subject to these Rules and to the policies and decisions of the National Council and National Executive, the Assistant National Secretary shall assist the National Secretary in the conduct of his/her day to day duties. Without limiting the generality of the foregoing he/she shall:
 - (i) With the approval of the National Secretary control, supervise or instruct any Officer or paid employees of the National Office to carry out the (a) day to day affairs and business of the National Office, (b) preparation of documents for presentation to a tribunal and/or (c) conduct of cases before a tribunal.
 - (ii) Keep a correct amount of monies received and expended in the day to day affairs of the National Office, and pay or otherwise appropriate funds of the National Office in accordance with these Rules and with the consultation and approval of the National Secretary.
 - (iii) Prepare or have prepared documents, including notifications of industrial disputes, as are required from time to time by the National Office in order to conduct cases before a Tribunal on behalf of the Union.
 - (iv) Give any other reasonable assistance to the National Secretary as and when required.
- (2) Where the Assistant National Secretary is temporarily required to act in the Office of National Secretary, an Assistant National Secretary (Divisional) – as determined by the National Executive – shall be Acting Assistant National Secretary and, subject to any restrictions that may be imposed by the National Executive or by these Rules, may exercise all the powers of that Office.

39 - DUTIES OF ASSISTANT NATIONAL SECRETARIES (DIVISIONAL)

- (1) An Assistant National Secretary (Divisional) shall act in accordance with the directions and instructions of the National Secretary in all matters. In addition to any duties specified elsewhere in these Rules, an Assistant National Secretary (Divisional) shall co-ordinate the activities of the National Division which he/she represents and shall assist the National Secretary in the performance of his/her duties.
- (2) When the National Secretary is temporarily unable to fulfil the duties of his/her Office, the Assistant National Secretary or an Assistant National Secretary (Divisional) as determined by the National Executive, shall be Acting National Secretary and, subject to any restrictions that may be imposed by the National Executive or by these Rules, may exercise all the powers of that Office.

40 - NATIONAL DIVISIONAL COMMITTEES

- (1) There shall be a National Divisional Committee for each Division established by the National Council.
- (2) A National Divisional Committee shall comprise the Assistant National Secretary for the National Division, the Branch Divisional Secretaries, and those National Divisional Delegates from the Branch to the National Council which represent that National Division. Where a Branch has combined National Divisions, the combined National Divisional Delegates from the Branch to the National Council shall have the right to attend National Divisional Committee meetings of the Division included in the Branch combined Division. The National President, the National Vice-Presidents, the National Secretary and the Assistant National Secretary shall all be ex-officio members of each National Divisional Committee.
- (3) A National Divisional Committee shall meet biennially on the day immediately preceding the biennial meeting of the National Council. Additional meetings may be held with the approval of the National Executive either immediately preceding meetings of the National Executive or at such other times and places as the National Executive determines. The Assistant National Secretary for the Division shall act as convener and secretary of the Committee. At the commencement of each meeting of the Committee, the Committee shall elect one of its members as Chairperson of the meeting.
- (4) The primary purpose of the National Divisional Committee shall be to provide a forum for National Divisions to develop National Divisional positions for submission to the National Council or the National Executive. A Divisional Committee shall however, subject to Sub-Rules 40(5) and 40(6), have power to make decisions in relation to matters which affect members of the National Division only.
- (5) A National Divisional Committee is bound by these Rules and the policies and decisions of the National Council and the National Executive and any decision in conflict with the Rules or the said policies and decisions shall be void and of no effect.
- (6) Where a National Divisional Committee makes a decision pursuant to its powers under this Rule, then, the National Secretary or, in his/her absence the National President, shall promptly be advised of such decision. The National Secretary or the National President, as the case may be, shall determine whether, in his/her opinion, the decision is one which affects the members of the National Division only. Where the National Secretary or the National President, as the case may be, forms the view that the decision of a National Divisional Committee is not one which affects members of the National Division only, he/she shall refer this issue to the National Executive for determination and, pending such determination, the National Divisional Committee and the members of the Committee shall take no action in relation to that decision.

- (7) A Branch Divisional Committee may refer a matter to the relevant National Divisional Committee. The Branch Divisional Secretary shall promptly advise the Branch Secretary that a matter has been so referred. In the event of a disagreement between the Branch Secretary and the Branch Divisional Committee on the issue of whether a matter is more properly dealt with by the Branch or by the National Divisional Committee, the issue shall be referred by the Branch Secretary to the National Executive for determination. Where the matter is referred to the National Executive, the Branch Secretary shall promptly advise the Branch Divisional Secretary. No action shall be taken by the Branch Divisional Committee or the members of the Committee in relation to the matter pending determination by the National Executive.
- (8) Where a meeting of a National Divisional Committee has been scheduled in accordance with the provisions of Sub-Rule 40(3), the Assistant National Secretary (Divisional) shall send a Notice of Meeting, together with an Agenda, to all members of the Committee at least fourteen days prior to the meeting.
- (9) National Divisional Committee members or the National Council or the National Executive or a Branch Council or a Branch Executive or a Branch Divisional Committee may place a matter on the agenda for a meeting of the National Divisional Committee.
- (10) A quorum for a meeting of the National Divisional Committee shall be a majority of the members of the Committee entitled to attend.
- (11) Each member of a National Divisional Committee shall have one vote. A resolution shall be carried if a majority of members present and voting, vote in favour.
- (12) Notwithstanding anything elsewhere contained in these Rules, a meeting of a National Divisional Committee may be held via telephone conference or video conference when a majority of the members of the Committee so agrees or when determined by the National Executive.

PART VI - BRANCH GOVERNING BODIES AND OFFICE BEARERS

41 - APPLICATION

The provisions of this Part apply to all Branches unless modified by the Branch specific provisions in Parts X to XVI of these Rules.

42 - BRANCH COUNCIL

- (1) The Branch Council shall be the highest deliberative body in the Branch. Subject to these Rules and any policies or decisions of the National Council or the National Executive, the Branch Council shall have power to do all things in relation to the Branch which are within the objects of the Union or incidental thereto including, without limiting the generality of the foregoing:-
 - (i) to implement the objects of the Union within the Branch;
 - (ii) to determine the structure and organisation of the Branch; and
 - (iii) subject to ratification by the National Council, to make rules for the management and operation of the Branch and its Divisions, Sub-Divisions, Sub-Branches and other structures.
 - (iv) to determine the salaries and conditions of employment of paid Branch Office Bearers and persons engaged as Branch employees;
 - (v) to impose a Branch levy;
 - (vi) to establish any special fund or funds to achieve any of the objects of the Union within the Branch;
 - (vii) to settle disputes between Branch Divisions;
 - (viii) to interpret the relevant Branch specific provisions in Parts X to XVI of these Rules;
 - (ix) to hear appeals regarding disciplinary action taken against any member of the Branch or any Branch Office Bearer;
 - (x) to expend such monies as may be necessary to fulfil the objects of the Union within the Branch;
 - (xi) to appoint and dismiss a Branch Returning Officer;
 - (xii) to appoint and dismiss a Branch auditor or a firm of auditors;
- (2) The composition of the Branch Council shall be as specified in Parts X to XVI of these Rules.

43 - BRANCH EXECUTIVE

- (3) The frequency, time and place of Ordinary Meetings of the Branch Council shall be as specified in Parts X to XVI of these Rules.
- (4) A Special Meeting of the Branch Council may be convened by the Branch Executive and shall be convened on the written request of at least two Branch Divisional Committees.
- (5) Branch Council members or the Branch Executive or any Branch Divisional Committee or any other Branch Governing Body may place a matter on the agenda for a meeting of the Branch Council.
- (6) Where an Ordinary Meeting of the Branch Council has been scheduled or a Special Meeting has been called, the Branch Secretary shall send a notice of meeting together with an agenda to each member of the Council entitled to attend, not less than fourteen days prior to date of the meeting.
- (7) A quorum for a meeting of the Branch Council shall be a majority of the members of the Council entitled to attend.
- (8) Subject to Sub-Rule 42(9), each member of the Branch Council shall have one vote. A resolution shall be carried if a majority of members present and voting, vote in favour.
- (9) Where a person, to the extent permitted by these Rules, holds more than one Office on the Branch Council, he/she shall nonetheless only be entitled to exercise one vote.
- (10) Notwithstanding anything elsewhere contained in these Rules, a meeting of the Branch Council may be held via telephone conference or video conference when a majority of Council members so agrees.

43 - BRANCH EXECUTIVE

- (1) The Branch Executive shall be the Committee of Management of the Branch. Subject to these Rules, to the policies and decisions of the National Council, the National Executive and the Branch Council and to the review of its decisions by the Branch Council, it shall have the care, control, management and superintendence of the activities of the Branch and between meetings of the Branch Council, it may exercise all or any of the powers and functions of the Branch Council other than the power to make, alter or rescind Parts X to XVI of these Rules but it shall not act contrary to any policy or decision of the Council and shall not rescind, alter, vary or revoke any policy or decision of the Branch Council. All decisions within the powers of a Branch Executive shall have full force and effect unless and until disallowed by the Branch Council.
- (2) The composition of a Branch Executive shall be as specified in Parts X to XVI of these Rules.
- (3) The frequency, time and place of Ordinary Meetings of the Branch Executive shall be as specified in Parts X to XVI of these Rules.
- (4) A Special Meeting of the Branch Executive may be convened by the Branch Secretary and the Branch President jointly and shall be convened upon receipt of a written request from at least two Branch Divisional Committees.

44 - BALLOTS OF THE BRANCH COUNCIL AND THE BRANCH EXECUTIVE

- (5) Branch Executive members or any Branch Divisional Committee or any other Branch Governing Body may place a matter on the agenda for a meeting of the Branch Executive.
- (6) Where an Ordinary Meeting of the Branch Executive has been scheduled or a Special Meeting has been called, the Branch Secretary shall forward a Notice of Meeting together with an Agenda to each member of the Branch Executive entitled to attend, not less than seven days prior to the date of the meeting.
- (7) A quorum for a meeting of the Branch Executive shall be a majority of the members of the Executive entitled to attend.
- (8) Subject to Sub-rule 43(9), each member of the Branch Executive shall have one vote. A resolution shall be carried if a majority of members present and voting, vote in favour.
- (9) Where a person, to the extent permitted by these Rules, holds more than one Office on the Branch Executive, he/she shall nonetheless only be entitled to exercise one vote. Notwithstanding this in the Queensland Branch a person shall not hold more than one position on the Branch Executive.
- (10) Notwithstanding anything elsewhere contained in these Rules, a meeting of the Branch Executive may be held via telephone conference or video conference when a majority of Executive members so agrees.

44 - BALLOTS OF THE BRANCH COUNCIL AND THE BRANCH EXECUTIVE

- (1) Between meetings of the Branch Council or the Branch Executive, the decision of the Council or the Executive, as the case may be, may be determined by ballot.
- (2) A decision to hold a ballot may be made by the Branch President and the Branch Secretary jointly.
- (3) Where a decision has been made to hold a ballot, the Branch Secretary shall despatch a ballot paper clearly setting out the matter(s) for decision, together with any relevant material, to each member of the Branch Council or the Branch Executive, as the case may be. The Branch Secretary shall advise each member of the date by which ballot papers must be returned, such date to be not less than seven days nor more than twenty-one days from the date that the ballot papers are despatched. Ballot papers not received by the Branch Secretary by the date specified, shall be disregarded provided that a question shall only be carried if the number of ballot papers returned are sufficient to meet the quorum provisions for meetings of the Branch Council or the Branch Executive under these Rules and a majority of the ballot papers returned record a vote in the affirmative.
- (4) The Branch Secretary shall provide a written report to members of the Branch Executive or the Branch Council, as the case may be, as soon as practicable after the completion of the ballot. The Branch Secretary shall retain all ballot papers for tabling and report at the next meeting of the Branch Executive or the Branch Council, as the case may be.

45 - NATIONAL MONITORING OF BRANCH DECISIONS

Where a Branch Council or a Branch Executive makes a decision in relation to the Branch which affects other Branches and/or the National Organisation, the Branch Secretary shall promptly advise the National Secretary or, in his/her absence, the National President, before taking any action to implement the decision. Where the National Secretary or the National President, as the case may be, forms the view that the decision does affect other Branches and/or the National Organisation, the National Secretary or the National President, as the case may be, shall so inform the Branch Secretary, and the Branch Council and the Branch Executive and the Branch Office Bearers shall take no further action on the matter without the authorisation of the National Executive.

46 - INTERVENTION IN BRANCH AND DIVISIONAL AFFAIRS

- (1) Where a Branch, or a National Division or a Branch Division refuses to comply or fails, within a reasonable time after receipt of a direction from the National Executive, to comply with these Rules or the National Policy of the Union or the decisions of the National Council or the National Executive or, in the case of a Branch Division with Branch policy or decisions of the Branch Council or the Branch Executive, then the National Council may suspend the Governing Bodies of the Branch or the National Division or the Branch Division, as the case may be, for a period of not more than six months and place the administration of such Branch or National Division or Branch Division in the hands of the National Executive. The National Executive may in turn appoint an administrator, answerable to the National Executive, to manage the affairs of the Branch or the National Division or the Branch Division, as the case may be, during the period of suspension.
- (2) At the conclusion of the period of suspension, the members of the Governing Bodies shall resume control of the Branch or the National Division or the Branch Division, as the case may be, unless such members have been removed from office in accordance with these Rules.
- (3) Notwithstanding any provision elsewhere in these Rules, a decision to suspend the Governing Bodies of a Branch or a National Division or a Branch Division, shall only be made by the National Council.

47 - BRANCH OFFICES: ELIGIBILITY AND TERM OF OFFICE

- (1) The Branch Offices are as specified in Parts X to XVI of these Rules.
- (2) Office Bearers shall be elected every four years in accordance with the provisions of Part VIII of these Rules and shall hold office until their successors are declared elected.
- (4) Where a Branch Office is a paid position, the Branch Council shall determine from time to time whether it is a full-time or a part-time or a casual position, provided that the Branch Council shall not alter the full-time or part-time or casual nature of an Office during the term of that Office without the consent of the Office Bearer.

47 - BRANCH OFFICES: ELIGIBILITY AND TERM OF OFFICE

- (5) Where a Branch Office is a paid position, to be eligible to nominate for office, a candidate must be a member of the Branch on the date on which nominations open and must have been continuously financial for a period of not less than twelve months immediately preceding the date on which nominations open.

To be "continuously financial", a candidate must not at any time within the twelve month period have been an unfinancial member.

- (6) Where a Branch Office is an honorary position, to be eligible to nominate for office, a candidate must be a member of the Branch and a financial member of the Union on the date on which nominations open.
- (7) In addition to the requirements specified in Sub-Rules 47(5) and 47(6):-
- (i) a candidate for the Offices of Branch Divisional President, Branch Divisional Secretary, Assistant Branch Divisional Secretary, Branch Divisional Organiser, Senior Branch Divisional Vice-President, Junior Branch Divisional Vice-President, Branch Divisional Vice-President, Branch Divisional Delegate to the Branch Council or any other Office within a Branch Division must be a member of the relevant Branch Division on the date on which nominations open; further, but subject to sub-rule 162(8) in the case of the Victorian Branch, a candidate for the Offices of Branch Divisional Secretary or Assistant Branch Divisional Secretary or Branch Divisional Organiser must, unless he/she is a candidate seeking re-election, have been employed for a period of not less than twelve months immediately prior to the date on which nominations open in the work function represented by the Branch Division;
 - (ii) a candidate for the Office of Sub-Divisional Representative on a Branch Divisional Committee must in addition to complying with the requirements specified in paragraph (i) of this Sub-Rule 47(7), be a member of the Sub-Division that the Office represents on the date on which nominations open;
 - (iii) a candidate for an Office, other than the Office of Branch Organiser, which represents a Sub-Branch or other geographical area within a Branch must, unless it is a paid Office and he/she is a candidate seeking re-election, have his/her usual place of employment located within the geographical area on the date on which nominations open;
 - (iv) a candidate for an Office which represents a geographical area within a Branch Division must meet the requirements of both paragraphs (i) and (iii) of this Sub-Rule 47(7).

48 - BRANCH SECRETARY AND ASSISTANT BRANCH SECRETARY

- (1) The Office of Branch Secretary shall be a paid position.
- (2) A Branch Secretary shall be elected by a secret ballot of all the financial members of the Branch.
- (3) Where the Branch Rules in Parts X to XVI provide for the Office of Assistant Branch Secretary then the provisions of Sub-Rules 48(1) and (2) shall also apply to that Office excepting the Tasmanian, Victorian and New South Wales Branches, where an Office of Assistant Branch Secretary is an unpaid position.
- (4) The New South Wales Branch shall have two (2) Assistant Branch Secretaries. The Assistant Branch Secretary (Rail), who shall be elected by a secret ballot of all the financial members of the New South Wales Branch, with the exception of members from the New South Wales Branch Tram and Bus Division. The Assistant Branch Secretary (Road), who shall be elected by a secret ballot of all the financial members of the New South Wales Tram and Bus Division only.

49 - BRANCH ORGANISERS AND BRANCH DIVISIONAL ORGANISERS

- (1) A Branch Council shall, from time to time, determine the number of Organisers and the geographical area or Division or Divisions within the Branch which each Organiser is to service.

In N.S.W and in Queensland the respective Branch Council shall, from time to time, determine whether such positions of Branch Organiser and Branch Divisional Organiser are to be filled as an Office under the Rules or to be filled by the engagement of persons as Branch employees.

- (2) The Offices of Branch Organiser and Branch Divisional Organiser shall be paid positions.
- (3) A Branch Organiser and a Branch Divisional Organiser, where established as an Office under the Rules, shall be elected by secret ballot of all the financial members within the geographical area or Division or Divisions serviced by the Organiser.
- (4) For the avoidance of doubt, and except and unless where expressly stated to the contrary elsewhere in these Rules, any part of these Rules which have application in Victoria and which refers to Branch Divisional Organiser shall be taken to include a reference to Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions).
- (5) The reference to Branch Divisional Organiser in sub-rule 49(1) does not include a reference to the Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions) of the Victorian Branch.

50 - OTHER BRANCH OFFICE BEARERS: ELECTORATE

- (1) A Branch President shall be elected by a secret ballot of all the financial members of the Branch.
- (2) A Senior Branch Vice-President, Junior Branch Vice-President or Branch Vice-President shall be elected by a secret ballot of all the financial members of the Branch or through a collegiate election by and from the members of the Branch Council. In the case of a collegiate election, the elections shall take place at the first meeting of the Branch Council following biennial elections.
- (3) A Branch Divisional President, a Branch Divisional Vice- President, a Branch Divisional Secretary, an Assistant Branch Divisional Secretary and a Branch Divisional Delegate to the Branch Council or the Branch Executive shall be elected by a secret ballot of all the financial members within the relevant Branch Division.

Provided that, the following provision shall apply in the case of the NSW Branch Locomotive Division: a Branch Divisional Vice-President (Freight) an Assistant Branch Divisional Secretary (Freight) will be elected by all Freight financial members of the NSW Branch Locomotive Division. A Branch Divisional Vice-President (Passenger) and Assistant Branch Divisional Secretary (Passenger) will be elected by all Passenger financial members of the NSW Branch Locomotive Division.

- (4) A Sub-Divisional Representative on a Branch Divisional Committee shall be elected by a secret ballot of all financial members within the Sub-Division or Sub-Divisions that the Office is to represent.
- (5) Other Branch Office Bearers not specified in Rules 48 or 49 or in this Rule, shall be elected in the manner provided for in Parts X to XVI of these Rules. Where a collegiate election is specified, the election shall take place at the first meeting of the Governing Body forming the electoral college following biennial elections.

51 - DUAL BRANCH OFFICES

- (1) Except in the case of an Office which is filled by a collegiate election or in the case of appointment under the provisions of Rules 78 or 79 and except as provided in Sub-Rule 51(2) and in Parts X to XVI of these Rules, no person shall be eligible to simultaneously hold more than one of the Branch Offices specified for a particular Branch in Parts X to XVI of these Rules. Where a person already holding a Branch Office is elected to another Branch Office, then he/she is deemed to have resigned from the Office already held.
- (2) A person may simultaneously hold the Office of Branch Divisional Secretary or the Office of Branch Divisional President or the office of Branch Divisional Delegate to Branch Council and another Branch Office provided that to do so would not infringe Sub-Rule 35(2).
- (3) Where a person holds a particular Branch Office and, by reason of holding such Office, he/she holds another Branch Office, he/she shall not be regarded as holding more than one Branch Office for the purposes of this Rule.

52 - DUTIES OF BRANCH PRESIDENT

- (1) In addition to any duties specified elsewhere in these Rules, a Branch President shall preside at all meetings of the Branch Council and the Branch Executive. He/she shall preserve order and decorum at such meetings and shall confirm the minutes thereof. He/she shall ensure that the Rules of the Union and the Branch are adhered to.
- (2) A Branch President is empowered to give an interpretation in relation to that Part of Parts X to XVI of these Rules which has application to his/her Branch or to determine any dispute involving the application or requirements of such Part and his/her decision in such manner shall be final and conclusive unless over-ruled by the Branch Council or the National Council. All rulings made by the Branch President shall be circulated in writing to members of the Branch Council as soon as practicable following the ruling. Further, the Branch Secretary shall maintain a record of all rulings by the Branch President.
- (3) At all meetings of the Branch, at which he/she presides, the Branch President shall have a deliberative but not a casting vote.
- (4) A Branch President shall be an ex officio member of all Branch Governing Bodies and Committees.

53 - DUTIES OF BRANCH VICE-PRESIDENT

In addition to any duties specified elsewhere in these Rules, a Branch Vice-President shall assist the Branch President in the conduct of his/her formal duties and in the absence of the Branch President, the Branch Vice-President or where there is more than one Branch Vice-President, the Senior Branch Vice-President, shall deputise for him/her and in the absence of both of them, the Junior Branch Vice-President shall so deputise for the Branch President. Where a Branch has more than one Junior Vice-President, the Junior Branch Vice-President who is to so deputise, shall be determined by the Branch Executive.

54 - DUTIES OF BRANCH SECRETARY

The Branch Secretary shall be the Principal Officer and Treasurer of the Branch. Between meetings of the Branch Council and the Branch Executive, he/she shall, subject to these Rules and to the policies and decisions of the National Council, the National Executive, the Branch Council and the Branch Executive, have primary responsibility for the conduct and management of the affairs of the Branch and do all things necessary to be done by or on behalf of the Branch. Without limiting the generality of the foregoing, he/she shall:-

- (i) discharge all duties assigned to him/her by these Rules, the Branch Council or the Branch Executive;
- (ii) summon and attend all meetings of the Branch Council and the Branch Executive;
- (iii) attend all meetings of the National Council and the National Executive;
- (iv) consult with the Branch President and the Assistant Branch Secretary (where such Office exists) and relevant Branch Divisional Secretaries on any urgent matters which require a decision between meetings of the Branch Executive;

- (v) attend to all Branch correspondence;
- (vi) authorise and release press statements and provide media comment on behalf of the Branch;
- (vii) be responsible for the safe custody of the Branch Seal (if any), and Branch documents, securities and accumulated funds;
- (viii) prepare, keep and/or file or cause to be prepared, kept and/or filed, all Branch documents and records required under the provisions of the RO Act and the RO Regulations or any other relevant legislation;
- (ix) receive all monies belonging to the Branch Fund and deposit same in a Bank on behalf of the Branch as soon as practicable;
- (x) disburse all Branch funds in accordance with the Rules;
- (xi) ensure that Branch financial records are maintained and that annual accounts are prepared and audited;
- (xii) monitor the accounts and other affairs of the Branch Divisions, Sub-Divisions and Sub-Branches and for this purpose to have access, whenever requested, to relevant documents and financial records;
- (xiii) prepare or cause to be prepared, all necessary documents for the Branch Council and the Branch Executive including the minutes of meetings;
- (xiv) prepare or cause to be prepared, regular financial statements for the Branch Council and the Branch Executive;
- (xv) prepare or cause to be prepared a statement showing Branch membership by category and financial status as at December 31 of each year and a statement of Branch income and expenditure and a balance sheet as at December 31 of each year and forward such statements to the National Secretary no later than March 31 of each year.
- (xvi) maintain Registers of Members of the Branch and Branch Office Bearers.
- (xvii) co-ordinate the activities of Branch Divisions;
- (xviii) control and supervise the Branch Office and its staff including the appointment and termination of such staff;
- (xix) initiate legal, industrial or other proceedings on behalf of the Branch before any Court, Commission, Board or Tribunal;
- (xx) be an ex-officio member of all Branch Governing Bodies and Committees;
- (xxi) be responsible to the Branch Council and the Branch Executive to the proper performance of his/her duties;

55 - DUTIES OF ASSISTANT BRANCH SECRETARY

- (1) In addition to any duties specified elsewhere in these Rules, the Assistant Branch Secretary (where such Office is provided for in Parts X to XVI of these Rules) shall assist the Branch Secretary and act in accordance with his/her directions and instructions.
- (2) When the Branch Secretary is temporarily unable to fulfil his/her duties, the Assistant Branch Secretary, or where such Office does not exist within a Branch, a member of the Branch Executive as determined by the Branch Executive, shall be Acting Branch Secretary and, subject to any restrictions that may be imposed by the Branch Executive or by these Rules, may exercise all the powers of that Office. Where a Branch has more than one Assistant Branch Secretary, the Branch Executive shall nominate one of them to be Acting Branch Secretary.

56 - DUTIES OF ORGANISERS

- (1) A Branch Organiser shall be under the direction of the Branch Secretary and, in addition to any duties specified elsewhere in these Rules, shall discharge all duties assigned to him/her by the Branch Secretary, the Branch Council and the Branch Executive.
- (2) A Branch Divisional Organiser shall be under the direction of the Branch Divisional Secretary and, in addition to any duties specified elsewhere in these Rules, shall discharge all duties assigned to him/her by the Branch Divisional Secretary or the Branch Divisional Committee.

57 - SUB-BRANCHES

- (1) A Branch Council may establish Sub-Branches within a particular geographical region comprising some or all members of the Branch within that region. The Branch Council shall determine the scope, role and operation of any Sub-Branch including the manner of electing representatives to the Sub-Branch Committee.
- (2) A Sub-Branch shall have a Sub-Branch Committee elected by the financial members within the Sub-Branch and comprising a Sub-Branch President, a Sub-Branch Vice-President, a Sub-Branch Secretary and up to seven Committee members. The Committee may meet up to six times per year.
- (3) A candidate for a position of Sub-Branch President, Sub-Branch Vice-President, Sub-Branch Secretary or Committee member must be a financial member of the Union and a member of the Sub-Branch on the date on which nominations open.

58 - BRANCH DIVISIONAL COMMITTEES

- (1) Each Branch Division shall have a Branch Divisional Committee. Subject to these Rules and the policies and decisions of the National Council, the National Executive, the Branch Council and the Branch Executive, the Branch Divisional Committee shall have management of those aspects of the Branch's operations which affect members of the Branch Division only.
- (2) Subject to Sub-Rule 40(7), a Branch Divisional Committee may refer a matter to the relevant National Divisional Committee.
- (3) The composition of a Branch Divisional Committee shall be as specified in Parts X to XVI of these Rules.
- (4) The frequency, time and place of Ordinary Meetings of a Branch Divisional Committee shall be as specified in Parts X to XVI of these Rules.
- (5) A Special Meeting of the Branch Divisional Committee may be convened by the Branch Divisional Secretary and the Branch Divisional President jointly, and shall be convened upon receipt of a written request from Sub-Divisions representing at least ten (10) per centum of the members of the Branch Division.
- (6) Branch Divisional Committee members or any Sub-Divisional Committee or any financial member of the Branch Division may place a matter on the agenda for a meeting of the Branch Divisional Committee.
- (7) Where an Ordinary Meeting of the Branch Divisional Committee has been scheduled or a Special Meeting has been called, the Branch Divisional Secretary shall provide a Notice of Meeting and together with an agenda to each member of the Committee entitled to attend, not less than seven days prior to the date of the meeting.
- (8) A quorum for a meeting of the Branch Divisional Committee shall be a majority of the members of the Committee entitled to attend.
- (9) Each member of the Branch Divisional Committee shall have one vote. A resolution shall be carried if a majority of members present and voting, vote in favour.
- (10) Between meetings of the Branch Divisional Committee, decisions may be made by ballot conducted in accordance with the procedures specified in Rule 44.
- (11) Notwithstanding anything elsewhere contained in these Rules a meeting of the Branch Divisional Committee may be held by telephone conference or video conference when a majority of the members of the Committee so agrees.

59 - BRANCH SUB-DIVISIONS

- (1) A Branch Divisional Committee may establish Branch Sub-Divisions based on depots, sheds or other workplaces or on geographical location or any other convenient sub-grouping of members within a Branch Division and shall determine the scope, role and operation of any Branch Sub-Division including the manner of electing representatives to the Sub-Divisional Committee.
- (2) Each Branch Locomotive Division except in New South Wales shall have a Sub-Divisional Committee Structure and each Branch Tram and Bus Division shall have a Sub-Divisional structure whilst other Branch Divisions, including the New South Wales Locomotive Division, may have a Sub-Divisional Committee or Sub-Divisional Representative/s.

In the case of a Branch Locomotive Sub-Division the Sub-Divisional Committee shall comprise a Branch Sub-Divisional President, a Branch Sub-Divisional Vice-President, a Branch Sub-Divisional Secretary and, except for the NSW Locomotive Division, up to seven committee members. The Tram and Bus Sub-Division shall comprise one representative, except in South Australia where the Division shall have a Sub-Divisional Committee comprising a Sub-Divisional President, a Sub-Divisional Vice-President and a Sub-Divisional Secretary.

A Sub-Divisional representative or committee shall be elected by the financial members with the depot, shed, workplace or geographical location comprising the Sub-Division. The functions of a Branch Sub-Divisional Committee or representative shall include the policing of relevant awards, determinations or other provisions relating to the welfare of members and the initial handling of local grievances.

- (3) A candidate for a position of Branch Sub-Divisional President, Branch Sub-Divisional Vice-President, Branch Sub-Divisional Secretary or Committee member or representative must be a financial member of the Union and a member of the Sub-Division on the date on which nominations open.
- (4) The Branch Divisional Committee shall determine the number of representatives on the Branch Divisional Committee to which a Branch Sub-Division is entitled. Where a Branch Divisional Committee determines that the number of members within a particular Branch Sub-Division is too small to warrant individual representation on the Branch Divisional Committee, then the Branch Divisional Committee may combine one or more Branch Sub-Divisions to form a single electorate for the purpose of electing a representative.

60 - SECTIONS WITHIN BRANCH DIVISIONS AND SUB-DIVISIONS

A Branch Divisional Committee may establish Sections within the Branch Division or within a Branch Sub-Division. A Section shall comprise a proportion of the membership of the Branch Division or a Branch Sub-Division and may have a work function, workplace and/or a geographical basis. The Branch Divisional Committee shall determine the scope, role and operation of such Sections.

61 - REGIONAL BRANCH DIVISIONS

A Branch Divisional Committee may establish a Regional Branch Division embracing the members of two or more Sub-Divisions within a particular geographical region. The Branch Divisional Committee shall determine the scope, role and operation of such Regional Branch Divisions.

62 - DUTIES OF BRANCH DIVISIONAL PRESIDENT

- (1) In addition to any duties specified elsewhere in these Rules, a Branch Divisional President shall preside at all meetings of the Branch Divisional Committee and shall preserve order and decorum at such meetings and shall confirm the minutes thereof. He/she shall ensure that the Rules and the policies of the Union and the Branch are adhered to.
- (2) At all meetings of the Branch Division at which he/she presides, a Branch Divisional President shall have a deliberative but not a casting vote.

63 - DUTIES OF BRANCH DIVISIONAL VICE-PRESIDENT

In addition to any duties specified elsewhere in these Rules, a Branch Divisional Vice-President shall assist the Branch Divisional President in the conduct of his/her duties and in the absence of the Branch Divisional President, the Branch Divisional Vice-President, or where there is more than one Branch Divisional Vice-President, the Senior Branch Divisional Vice-President, shall deputise for him/her and in the absence of both of them, the Junior Branch Divisional Vice-President shall so deputise for the Branch Divisional President. Where a Branch Division has more than one Junior Branch Divisional Vice-President, the Junior Branch Divisional Vice-President who is to so deputise, shall be determined by the Branch Divisional Committee.

Provided that, the following provision shall apply to the NSW Branch Locomotive Division: in the absence of the Branch Divisional President, the Branch Divisional Committee shall determine which of the two Branch Divisional Vice-Presidents shall deputise for the Branch Divisional President in his/her absence.

64 - DUTIES OF BRANCH DIVISIONAL SECRETARY

A Branch Divisional Secretary shall be the Principal Officer and Treasurer of the Branch Division and shall, subject to the Rules and the policies and decisions of the National Council, the National Executive, the Branch Council, the Branch Executive and the Branch Divisional Committee, oversee the affairs of the Branch Division. In addition to any duties specified elsewhere in the Rules, he/she shall ensure that minutes of Branch Divisional Committee Meetings are kept, that financial records are maintained, that Branch Divisional funds are properly expended and that meetings are duly convened. In addition a Branch Divisional Secretary shall provide a monthly financial report to the Branch Executive and a periodic financial report to each meeting of the Branch Council and shall promptly inform the Branch Secretary of all decisions made by the Branch Divisional Committee.

A Branch Divisional Assistant Secretary shall assist the Branch Divisional Secretary and act in accordance with his/her directions and instructions.

When the Branch Divisional Secretary is temporarily unable to fulfil his/her duties, the Branch Divisional Assistant Secretary shall be Acting Branch Divisional Secretary and, subject to any restrictions that may be imposed by the Branch Divisional Committee or by these rules, may exercise all the powers of that office.

Provided that, the following provision shall apply to the NSW Branch Locomotive Division: when the Branch Divisional Secretary is temporarily unable to fulfil his/her duties, the Branch Divisional Committee shall determine which of the two Branch Divisional Assistant Secretaries shall be the Acting Branch Divisional Secretary.

65 - BRANCH MONITORING OF BRANCH DIVISIONAL DECISIONS

Where a Branch Divisional Committee makes a decision in relation to the Branch Division, which affects other Branch Divisions and/or the Branch generally, the Branch Divisional Secretary shall promptly advise the Branch Secretary or, in his/her absence, the Branch President, before taking any action to implement the decision. Where the Branch Secretary or the Branch President, as the case may be, forms the view that the decision does effect other Branch Divisions and/or the Branch generally, the Branch Secretary or the Branch President, as the case may be, shall so inform the Branch Divisional Secretary, and the Branch Divisional Committee and the Branch Divisional Office Bearers shall take no further action on the matter without the authorisation of the Branch Executive.

**PART VII - EXPENSES, PROXIES, ELIGIBILITY FOR
OFFICE AND MISCONDUCT**

66 - EXPENSES OF OFFICE BEARERS AND MEMBERS

- (1) National and Branch Office Bearers shall be entitled to be compensated for any travel, accommodation or other out-of-pocket expenses incurred as a result of attendance at meetings of the Union's Governing Bodies or by engagement on authorised Union business. Members engaged on authorised Union business shall have a similar entitlement. The amount of such entitlement shall be determined from time to time by the National Council or the National Executive.
- (2) National and Branch Office Bearers shall be entitled to be compensated for loss of pay incurred as a result of attendance at meetings of the Union's Governing Bodies or by engagement on authorised Union business.

Members engaged on authorised Union business shall have a similar entitlement. The amount of such entitlement shall, in the case of National Office Bearers, be determined by the National Council or the National Executive and, in the case of Branch Office Bearers and members, by the Branch Council or the Branch Executive.

67 - PROXIES

- (1) Any member of a Governing Body within the Union who is unable to attend all or part of a meeting of such Governing Body, may be represented by another person as a proxy delegate appointed in accordance with and subject to the restrictions imposed by this Rule.
- (2) A person appointed as a proxy delegate shall be a financial member of the Union. Further, where a member represents a particular Branch, National Division, Branch Division, Sub-Division or geographical area, then the proxy delegate shall come from the same Branch, National Division, Branch Division, Sub-Division or geographical area, as the case may be.

(3) Proxies for National Office Bearers shall be as follows:-

- (i) A proxy for the National President or the National Secretary shall be determined in accordance with the provisions of Rules 37 and 39 respectively.
- (ii) A proxy for the National Vice-President shall be appointed by the National Executive.
- (iii) A proxy for an Assistant National Secretary (Divisional) shall be appointed by the relevant National Divisional Committee.
- (iv) A proxy for a Branch Delegate to the National Executive shall be appointed by the Branch Executive.
- (v) A proxy for a National Divisional Delegate from the Branch to the National Council shall be appointed by the relevant Branch Divisional Committee.
- (vi) A proxy for a representative to a National Divisional Committee shall be appointed by the relevant Branch Council.

(4) Subject to any contrary or additional provisions in Parts X to XVI of these Rules, proxies for Branch Office Bearers shall be as follows:-

- (i) A proxy for the Branch President or the Branch Secretary shall be determined in accordance with the provisions of Rules 53 and 55 respectively.
- (ii) A proxy for a Senior Branch Vice-President, a Junior Vice-President, a Branch Vice-President, an Assistant Branch Secretary or a Branch Organiser shall be appointed by the Branch Executive.
- (iii) A proxy for a Branch Divisional Organiser shall be appointed by the relevant Branch Divisional Committee.
- (iv) A proxy for a Branch Divisional President shall be determined in accordance with the provisions of Rule 63.
- (v) A proxy for a Senior Branch Divisional Vice-President, a Junior Branch Divisional Vice-President, a Branch Divisional Vice-President or a Branch Divisional Secretary shall be appointed by the Branch Divisional Committee.
- (vi) A proxy for a Branch Divisional Delegate to the Branch Council or the Branch Executive, shall be appointed by the relevant Branch Divisional Committee.
- (vii) A proxy for a Sub-Divisional Representative on a Branch Divisional Committee shall be appointed by the Sub-Divisional Committee or, where a Representative represents more than one Branch Sub-Division, by the relevant Sub-Divisional Committees jointly.

68 - ELIGIBILITY FOR OFFICE

- (1) Notwithstanding any provisions elsewhere in these Rules, a person is ineligible to nominate for any Office or to continue to hold any Office within the Union if:-
 - (i) he/she is not a member or resigns from membership;
 - (ii) he/she is not, or ceases to be, entitled to remain as a member of the Union; or
 - (iii) he/she is or becomes employed principally in an industry or calling falling outside the scope of Rule 4;
 - (iv) he/she is or becomes an Honorary Life Member or an Associate Member;
 - (v) in the case of an Office which represents a National Division or a Branch Division, he/she is not, or ceases to be, a member of the National Division or the Branch Division, as the case may be; or
 - (vi) in the case of a Branch Office or a National Office which represents a Branch, he/she is not, or ceases to be, a member of the Branch; or
 - (vii) in the case of an Office, other than the Office of Branch Organiser, which represents a Sub-Branch or other geographical area within a Branch, his/her usual place of employment is not, or ceases to be, located within that area; or
 - (viii) in the case of an Office which represents a Sub-Division, he/she is not, or ceases to be, a member of the Sub-Division; or
 - (ix) subject to Sub-Rule 68(3), he/she is or becomes unfinancial.
- (2) Where an Office Bearer within the Union ceases to be eligible to continue to hold office under the provisions of paragraphs (i) to (viii) inclusive of Sub-Rule 68(1) then the National Secretary in the case of National Office Bearers, and the Branch Secretary in the case of Branch Office Bearers, shall write to the Office Bearer advising him/her that he/she is ineligible to continue to hold his/her Office and the reasons therefor. That advice shall invite the Office Bearer to submit any material he/she wishes to so submit within the fourteen days of the date of the written advice and shall advise the Office Bearer that the details of his/her ineligibility together with any submission from him/her will be placed before the next meeting of the National Executive in the case of National Office Bearers or the Branch Executive in the case of Branch Office Bearers. The National Executive or the Branch Executive, as the case may be, shall consider the material submitted and if satisfied that the Office Bearer is ineligible to continue to hold Office under the provisions of this Rule, it shall remove the person from Office with effect from the date of the Executive's decision.

69 - GENERAL OBLIGATIONS OF OFFICE BEARERS AND ACTION IN RELATION TO MISCONDUCT

- (3) Where an Office Bearer within the Union becomes unfinancial, then he/she shall be deemed to be suspended from his/her Office and from all the rights and privileges attached to that Office on and from the date on which he/she becomes unfinancial and until he/she becomes financial again. The Office Bearer shall be advised by the National Secretary, in the case of National Office Bearers and the Branch Secretary in the case of Branch Office Bearers, and the written advice shall state that the Office Bearer will be removed from office unless he/she becomes financial within fourteen days of the date of the letter. Where an Office Bearer fails to become financial within the fourteen day period, then the National Executive in the case of National Office Bearers, or the Branch Executive, in the case of Branch Office Bearers, shall remove the person from Office with effect from the date of the Executive's decision.
- (4) Where the Office Bearer who has ceased to be eligible to hold office is the National Secretary or the Branch Secretary, then the processes prescribed in Sub-Rules 68(2) and 68(3) shall be carried out by the National President or the Branch President, as the case may be.
- (5) Where a person holds an Office which is filled through a collegiate election and the term of that collegiate Office expires after the term of the Office within the electoral college which that person also holds and which qualified him/her to nominate for the collegiate Office, he/she shall not cease to hold that collegiate Office by reason only of him/her ceasing to hold the qualifying Office due to the expiration of the term of that Office.

69 - GENERAL OBLIGATIONS OF OFFICE BEARERS AND ACTION IN RELATION TO MISCONDUCT

- (1) A person holding an Office within the Union shall carry out his/her role in an honest, competent and diligent manner. He/she shall abide by these Rules and the policies and decisions of the Governing Bodies of the Union.
- (2) A person holding an Office who has been found guilty in accordance with the procedures set out in this Rule of a breach of his/her obligations as an Office Bearer may be reprimanded, warned, temporarily suspended from office for a period of not more than twelve months, fined an amount not exceeding \$100.00 or, subject to Sub-Rule 69(3), removed from office.
- (3) A person holding an Office within the Union may be removed from office, only if he/she has been found guilty in accordance with this Rule, of a misappropriation of the funds of the Union, a substantial breach of these Rules or gross misbehaviour, or gross neglect of duty or has otherwise ceased to be eligible to continue to hold Office under these Rules. For the purposes of this Rule, a "substantial breach of these Rules" includes a persistent refusal or failure to abide by the obligations imposed by these Rules including those obligations imposed by Sub-Rule 69(1).

69 - GENERAL OBLIGATIONS OF OFFICE BEARERS AND ACTION IN RELATION TO MISCONDUCT

- (4) Any member, including an Office Bearer, wishing to invoke the preceding Sub-Rules against a person holding an Office, shall detail in writing the conduct or circumstances alleged to justify disciplinary action and forward that written charge to the National Secretary in the case of National Office Bearers and to the Branch Secretary in the case of Branch Office Bearers, who shall forward a copy to the person against whom the charge is made. When the National Secretary or the Branch Secretary, as the case may be, forwards the written charge to the Office Bearer, that Office Bearer shall be requested to advise the National Secretary or the Branch Secretary, as the case may be, within seven days whether he/she admits to or denies the charge and/or whether he/she wishes to make any comment thereon.
- (5) Where the National Secretary or the Branch Secretary is the person against whom the charge is made, then the charge shall be forwarded to the National President or the Branch President, as the case may be, who shall take the actions that would otherwise be taken by the National Secretary or the Branch Secretary under this Rule.
- (6) At the next Ordinary or Special Meeting of the National Executive in the case of National Office Bearers and the Branch Executive in the case of Branch Office Bearers, the charge and any reply made by the person against whom the charge is made, shall be considered and the Executive may resolve:-
 - (i) that the person charged shall be called upon to show cause to the Executive why he/she should not be disciplined; or
 - (ii) that no further action be taken.
- (7) If the charge is to be proceeded with, the person charged shall be called upon to attend before the National Executive or the Branch Executive, as the case may be, at a stated time and place to show cause why he/she should not be disciplined. The person charged shall be given at least twenty-one days' notice of the time and place of the hearing. At least fourteen days before the hearing, the person laying the charge shall provide the Office Bearer with particulars of the charge reasonably sufficient to enable him/her to know the nature of the allegations made against him/her and the circumstances alleged to justify disciplinary action.
- (8) An Office Bearer who has been charged may, by resolution of the National Executive or the Branch Executive, as the case may be, be directed not to carry out some or all of the duties of his/her Office pending the hearing and determination of the charge.
- (9) At the hearing, the person laying the charge and the person charged:
 - (i) shall be heard in person if he/she or they so desire;
 - (ii) may submit a written statement;
 - (iii) may call witnesses;
 - (iv) may examine and cross-examine witnesses;
 - (v) may present evidence relevant to the charge.

- (10) No person shall be present at the hearing of the charge other than the person charged, the person laying the charge, the members of the National Executive or the Branch Executive, as the case may be, and any witnesses called, provided that any witnesses called may only be present while such witness's evidence is being taken. No person other than members of the National Executive or the Branch Executive, as the case may be, shall be present after the hearing of the charge while the Executive is deliberating upon its decision in relation to that charge.
- (11) Where the member laying the charge or the person charged is a member of the National Executive or the Branch Executive, as the case may be, then that person shall take no part in the deliberations of the Executive and shall absent himself/herself during the Executive's deliberations.
- (12) The National Executive or the Branch Executive, as the case may be, shall determine whether or not the charge has been proven and subject to Sub-Rule 69(3), determine the appropriate penalty.
- (13) An Office Bearer who is found guilty pursuant to this Rule, shall have a right of appeal to the National Council in the case of a decision by the National Executive and to the Branch Council in the case of a decision by the Branch Executive. The appeal may be against the finding of guilt and/or the penalty imposed.
- (14) An appeal right shall be exercised within fourteen days of receipt of written advice of the decision of the Executive by notice in writing to the National Secretary or the Branch Secretary, as the case may be, or, where the National Secretary or the Branch Secretary is the person charged, to the National President or the Branch President, as the case may be. In hearing such appeal, the Council shall follow the same proceedings and accord the Office Bearer the same rights as are provided for in this Rule in relation to the hearing of the matter by the Executive.
- (15) A Branch Office Bearer shall have a further right of appeal from the Branch Council to the National Executive, whose decision shall be final.

PART VIII – ELECTIONS

70 - ELECTIONS FOR OFFICES

Elections for all Offices within the Union shall take place in accordance with the provisions of this Part.

71 - ELECTION TIMETABLE AND ASSUMPTION OF OFFICE

- (1) Except as provided in Sub-Rule 71(3), the timetable for elections within the Union, other than elections to fill a casual vacancy, shall be as follows:-
 - (i) nominations shall open at 9.00am on the first Monday in July of an election year and shall close at 5.00pm on the fourth Monday in July in that year.
 - (ii) where a ballot is necessary, the ballot shall commence at 9.00am on the first Monday in September of an election year and shall conclude at 5.00pm on the fourth Monday in September of that year.

Provided that the National Executive may, in the case of elections for National Offices, and a Branch Council may, in the case of elections for Branch Offices, vary this timetable in exceptional circumstances.

- (2) The ballot shall be declared as soon as practicable after the counting of the votes. Successful candidates shall take office on and from the declaration of the ballot.
- (3) Where an Office is to be filled through a collegiate election under these Rules, the election shall take place at the first meeting of the electoral college following elections for the members of the college. The ballot shall be declared at that meeting and the successful candidate shall take office forthwith.
- (4) For the election of the President, Vice President and Junior Vice President of the Tram and Bus Division of the Queensland Branch, the nominations will be called one week from the declaration of the poll for Sub Divisional Representatives. Nominations will close one week after they are called. One week will be allowed for withdrawal of nominations and a ballot will occur within fourteen (14) days after withdrawal of nominations closing.

72 - RETURNING OFFICERS

- (1) The National Council shall appoint a National Returning Officer who shall, subject to any statutory provision regarding the conduct of elections, conduct all National elections and ballots.
- (2) The National Council may appoint an Assistant Returning Officer or Officers to assist the National Returning Officer.
- (3) A Branch Council shall appoint a Branch Returning Officer who shall, subject to any statutory provision regarding the conduct of elections, conduct all Branch elections and ballots.
- (4) A Branch Council shall appoint an Assistant Branch Returning Officer or Officers to assist the Branch Returning Officer.
- (5) The National and the Branch Returning Officers and Assistant Returning Officers shall not be Office Bearers within or employees of the Union.

73 - ELECTION PROCEDURES

Except where otherwise provided in these Rules, elections within the Union shall be conducted in accordance with the following procedures:-

- (i) The Returning Officer shall call for nominations at least three weeks before the date on which nominations open by a notice published in a union journal or by circulars addressed to members or by the insertion of an advertisement in a newspaper or newspapers circulating throughout the electorate. Such notices shall specify the date on which nominations will open and will close, the dates upon which the ballot will open and will close, the manner in which nominations can be made and the eligibility requirements for nomination. Where the office or offices for which elections are held are paid positions, the notice shall specify the location, duties and responsibilities of the Office.
- (ii) Nominations shall be in writing and shall be signed by the nominee.
- (iii) If the Returning Officer finds that a nomination is defective, he/she shall, before rejecting the nomination, notify the person concerned of the defect and where it is practicable to do so, give him or her the opportunity of remedying the defect within not less than seven days but not more than ten days after he or she has been notified.
- (iv) A member nominating for any office may withdraw his/her nomination by advising the Returning Officer in writing at any time after the opening date for receipt of nominations but not later than ten days after the closing date for the receipt of nominations.
- (v) A candidate in any election shall be entitled to appoint, by notice in writing to the Returning Officer, another person to act at his/her own expense as a scrutineer on his/her behalf. Such scrutineer shall be entitled to be present at all stages of the ballot and may draw the attention of the Returning Officer to any complaint which he/she has regarding the ballot, but he/she shall not interfere in the counting of the ballot or handle any ballot paper or ballot envelope without the permission of the Returning Officer. The Returning Officer shall, if requested by any scrutineer, inform the scrutineer of the times and places at which the various stages of the ballot will be conducted.
- (vi) Except in the case of Offices which represent members in the Tram and Bus Division only, a candidate in an election shall be entitled to support his/her candidature in National and Branch Journals and may submit articles for this purpose.
- (vii) If the number of nominations does not exceed the number of vacancies, the Returning Officer shall declare the nominee(s) duly elected. Nominees declared duly elected shall not, however, take Office until the day following the date on which a ballot would have concluded pursuant to the provisions of Rule 71.
- (viii) If the number of nominations exceeds the number of vacancies, a secret postal ballot of all financial members within the relevant electorate, shall be held.

- (ix) Where a ballot is necessary, the Returning Officer shall cause to be printed ballot papers which are oblong in shape and show the name, classification and work location of each candidate. All ballot papers shall be printed bearing the signature of the Returning Officer imposed on a facsimile of the Union's Seal. No vote shall be valid unless the ballot paper bears the signature of the Returning Officer imposed upon a facsimile of the Union's Seal. The names of the candidates shall appear on the ballot paper as decided by lot. One ballot paper may contain provision for voting in respect of more than one election.
- (x) The Returning Officer shall also cause to be printed declaration envelopes marked "Ballot Paper" and other prepaid envelopes bearing the address of the Returning Officer. Both the declaration envelopes and the prepaid envelopes shall comply with the forms prescribed by the RO Regulations. In addition, the removable flap or label shall also have printed on it a number corresponding to a number appearing opposite the financial member's name on the list of voters.
- (xi) The Returning Officer shall prepare or cause to be prepared a voters' roll containing the name and last known postal address including postcode of each and every member within the electorate, who is a financial member on the day the roll of voters closes. The voters' roll shall close seven (7) days before the date the nominations open. The closing of the roll of voters is not to be taken to prevent the correction of errors in the roll after that day up to but not extending beyond a date seven days prior to the commencing date for the conduct of the ballot.
- (xii) The Returning Officer shall keep a record of the number of ballot papers printed, the number issued by him/her and the number used and unused and, in his/her written declaration of the poll, shall account for every ballot paper printed.
- (xiii) The Returning Officer shall issue by pre-paid post to each financial member within the electorate, a Ballot Paper as specified, together with a declaration envelope marked "Ballot Paper" suitable for containing the Ballot Paper and supply therewith to each voter a pre-paid envelope addressed to the Returning Officer.
- (xiv) The Returning Officer shall arrange for a post office box to which ballot papers may be forwarded and shall arrange, so far as is possible, that such post office box is not able to be accessed by persons other than himself/herself (post office staff excepted).
- (xv) The Returning Officer shall instruct each voter in the manner in which a vote is to be recorded on the ballot paper.
- (xvi) The voter shall, on receipt of the ballot paper, record his/her vote, enclose the ballot paper in the envelope marked "Ballot Paper", seal the envelope, sign the declaration on the removable flap or label in the place provided and insert it in the prepaid envelope bearing the address of the Returning Officer and thereafter forward it by post to the Returning Officer.

- (xvii) The Returning Officer shall, after the closing date for the ballot, collect the envelopes containing the ballot papers from the post office box. He/she shall check the details and declaration on the removable flap or label with the voters' roll to ensure that no votes are cast except by those entitled to do so and that no voter has cast more votes than he/she is entitled to. He/she shall then remove the declaration envelopes marked "Ballot Paper" from the outside envelopes.
- (xviii) The Returning Officer shall remove the removable flap or label from the declaration envelope marked "Ballot Paper" before removing the ballot papers. He/she shall admit the ballot papers properly marked and count those ballot papers.
- (xix) Where more than one candidate receive the same number of votes, the Returning Officer shall determine the successful candidate by lot provided that the candidates agree. In the event that the candidates do not agree then a further ballot shall be held in accordance with these Rules.
- (xx) When the counting of the ballot is completed, the Returning Officer shall cause all envelopes, ballot papers, lists and other documents relating to the election to be filed and preserved at the registered office of the Union or the office of the Branch, as the case may be, for a period of one year after completion of the election.
- (xxi) The Returning Officer shall declare the result of the ballot as soon as practicable following the completion of the count.
- (xxii) The Returning Officer shall have the power to call fresh elections in the event of irregularities being discovered in relation to the ballot or for any other reason which affects the legality of the election result.
- (xxiii) Where no nominations are received for any position the Returning Officer shall by notice in writing to the members call for nominations for that position within 7 days of the declaration of the ballot. A further election shall be held for that position and as far as is practicable the provisions of this Rule shall apply.
- (xxiv) If no nominations are received again then the Returning Officer shall by notice to the members call for nominations for that position 12 months after the declaration of the initial Recall Ballot. A further election ("Further Recall Ballot") shall be held for that position and as far as practicable the provisions of this Rule shall apply. A person elected to office at a further Recall Ballot in accordance with this sub-rule shall hold office for the remainder of the term of the office.

74 - METHOD OF VOTING

Except as provided Parts X to XVI of these Rules, the method of voting for National and Branch Offices shall be first past the post. Accordingly, voters shall place a cross in each square of the ballot paper opposite the name(s) of the candidate(s) of his/her choice up to but not exceeding the number of candidates required to be elected. A mark other than a cross shall be regarded as a valid vote provided that the Returning Officer is of the view that the ballot paper clearly indicates the voter's intention. Where the number of candidates to be elected exceeds one, a vote shall be valid notwithstanding that the voter does not exercise his/her right to cast his/her vote for the total number of candidates to be elected.

75 - ELECTION PROCEDURES: TRAM AND BUS DIVISION

- (1) All voting for National or Branch Offices which represent members within the Tram and Bus Division only, shall be by attendance ballot.
- (2) Elections for National or Branch Offices which represent members within the Tram and Bus Division only, shall be conducted in accordance with the timetable specified in Rule 71 with the necessary changes being made and be conducted by the National or Branch Returning Officers appointed pursuant to Rule 72. In addition, the provisions of Rule 73, with the exception of paragraphs (viii), (x), (xiii), (xiv), (xvi), (xvii) and (xviii), shall apply to such elections.

Members shall be notified by printed circulars setting out all positions for which an election is to be conducted by the Returning Officer. Such circulars to be posted in all work centres e.g. Depots, Sheds, Offices, Departments etc. where the Division members are employed. These circulars shall be displayed for at least three weeks prior to the closing of nominations.

- (3) If the number of nominations exceeds the number of vacancies, the Returning Officer shall arrange for a secret ballot to be held of all financial members within the relevant electorate. Such ballot shall be conducted by the Returning Officer over two days within the State of Victoria and over one day within other States within the ballot period specified in Rule 71 and the Returning Officer shall ensure that all members are advised of the time and place at which they may cast their votes.

The ballot of financial members of the Division shall be held on the same day/days. Where the ballot is held on one day the ballot must be held on the Thursday of the third full week in September. Where the ballot is held over two days the ballot must be held on the Wednesday and Thursday of the third full week of September. The time(s) for polling shall be 7.00 a.m. to 4.30 p.m. on the day(s) of the ballot. Members shall be notified by printed circular of the time and date(s) of polling, circulars to be posted in all work centres.

- (4) Any member who satisfies the Returning Officer that he/she will be unable to vote personally on the day fixed for the ballot, shall be provided with a postal ballot and the provision and processing of such postal ballot shall be in accordance with paragraphs (x), (xiii), (xiv), (xv), (xvi), (xvii) and (xviii) of Rule 73.

(5) Except in the case of absent voting pursuant to the provisions of Sub-Rule 75(5), ballots covered by this Rule shall be in accordance with the following provisions:-

- (i) Ballots shall be conducted in a room or marquee or other suitable place that will ensure suitable voter privacy;
- (ii) An Assistant Returning Officer appointed pursuant to Rule 72 shall be in attendance at such polling place and shall ensure that members entitled to vote are afforded an adequate opportunity of voting without intimidation;
- (iii) A voter's roll shall be provided at each polling place and the Assistant Returning Officer shall ensure that a record of each member voting is duly made on the roll.

As soon as practicable after the date determined for the commencement of issuing ballot papers in respect of an election, the Returning Officer shall deliver to each Assistant Returning Officer sufficient ballot papers for each person whose name appears on the roll of voters for the relevant work centre.

At the end of each day's voting the Returning Officer shall check with the Assistant Returning Officer the number of ballot papers issued with the voters roll to ensure that no votes are cast except by those entitled to do so and that no voter has cast more votes than he/she is entitled to;

- (iv) Sealed and locked ballot boxes must be used at the conclusion of the ballot and all boxes must be transported personally by the Assistant Returning Officer in charge of the particular booth to the custody of the Returning Officer;
- (v) Once a voter has marked his/her ballot paper, he/she shall deposit such ballot paper in the ballot box in the presence of the Assistant Returning Officer;
- (vi) The Returning Officer shall after the closing of the ballot, collect the envelopes containing the absentee ballot papers from the post office box in time for them to be counted together with the votes cast at the various work centres. Each Assistant Returning Officer shall provide the Returning Officer with a Declaration which will show:-

- (a) the number of ballot papers received;
- (b) the number of ballot papers issued (other than duplicate ballot papers); and
- (c) the number of duplicate ballot papers issued.

Upon return of the ballot boxes to the Returning Officer, the Returning Officer shall supervise and monitor the removal of the ballot papers from the ballot box, the admission of those ballot papers which are properly marked and the counting of those ballot papers by the Assistant Returning Officers;

- (vii) The Returning Officer shall declare the result of the ballot as soon as practicable following the completion of the count.

76 - COLLEGIATE ELECTIONS

- (1) Collegiate elections shall be conducted by the National or Branch Returning Officer and shall be by secret ballot undertaken at a meeting of the relevant Governing Body which constitutes the electoral college.
- (2) The following provisions shall apply to collegiate elections:-
 - (i) Nominations shall be called by notice sent by the Returning Officer to the postal address of each member of the Governing Body eligible to nominate, at least thirty days prior to the meeting at which the ballot is to occur;
 - (ii) Nominations shall close at 12.00 noon on the first day of the scheduled meeting of the Governing Body;
 - (iii) The provisions of paragraphs (ii) and (iii) of Rule 73 shall apply to nominations for collegiate elections;
 - (iv) Any member nominating may withdraw his/her nomination by advising the Returning Officer in writing at any time up to the close of nominations;
 - (vi) If the number of nominations does not exceed the number of vacancies, the Returning Officer shall declare the nominees duly elected;
 - (vii) If the number of nominations exceeds the number of vacancies, a secret ballot of the members, or the proxy of a member as per Rule 67, of the Governing Body entitled to vote shall be held during the course of the afternoon on the first day of the meeting of such Governing Body;
 - (viii) The method of voting shall be as prescribed in Rule 74;
 - (ix) In addition to the provisions specified elsewhere in this Rule, the provisions of paragraphs (v), (xix), (xx), (xxi) and (xxii) of Rule 73 shall apply to collegiate elections.

77 - NOMINATION FOR MORE THAN ONE OFFICE

Where two Offices cannot be held simultaneously under these Rules then a person may not nominate for both Offices. Where a person does so nominate, he/she shall be required by the Returning Officer to elect which of the Offices he/she wishes to nominate for. Where a person declines or otherwise fails to so elect, then he/she shall be deemed to have nominated for that

Office having the highest ranking in the order of preference shown in Sub-Rule 31(1) and in the Rules specifying Branch Offices in Parts X to XVI of these Rules, with National Offices ranking ahead of Branch Offices.

78 - CASUAL VACANCIES

- (1) A casual vacancy occurs when an Office Bearer dies, resigns or is removed from office or ceases to hold office in accordance with these Rules.
- (2) Where a casual vacancy occurs in relation to any Office within the Union it shall be filled by an ordinary election held in accordance with the provisions of this part if the unexpired portion of the term exceeds 3 years.
- (3) Where an election is to be held pursuant to the provisions of Sub-Rule 78(2), the National Council in the case of a National Office or the Branch Council in the case of a Branch Office, may appoint a person to fill the vacant Office pending the declaration of the ballot.
- (4) Except as provided in sub-rule (2), the National Council, in the case of National Office Bearers and the Branch Council in the case of Branch Office Bearers may appoint a person to fill a casual vacancy.
- (5) Where a person is elected under Sub-Rule 78(2) or appointed under Sub-Rule 78(4) to fill a casual vacancy, then he/she shall hold office for the unexpired portion of the term.
- (6) Notwithstanding anything elsewhere contained in this Rule, where an appointment is made pursuant to the provisions of Sub-Rules 78(3) or (4) in relation to an Office which, under these Rules, is to be filled on the basis of an order of seniority, then any appointment to a casual vacancy shall be in accordance with that order of seniority.

79 - TEMPORARY APPOINTMENTS

- (1) Subject to Sub-Rule 79(2) and (3), where by reason of illness, absence on leave or any other reason, an Office Bearer is unable to fulfil the duties of his/her Office for a period exceeding six weeks, then the National Executive in the case of National Office Bearers and the Branch Executive in the case of Branch Office Bearers, may appoint an Office Bearer to act in the Office for the duration of the absence with such appointee having all the rights and duties of the particular Office.
- (2) In the case of the National President and the National Secretary, a National Vice- President and the Assistant National Secretary or an Assistant National Secretary (Divisional) respectively shall act in the Office pursuant to the provisions of Rules 37 and 38A. In the case of the Branch President and the Branch Secretary, a Branch Vice-President and the Assistant Branch Secretary respectively, shall act in the Office pursuant to the provisions of Rule 53 and 55.
- (3) In the case of the Assistant National Secretary, an Assistant National Secretary (Divisional) shall act in the office pursuant to the provisions of Rule 38A.

PART IX – GENERAL

80 - IRREGULARITIES

- (1) Any Governing Body within the Union may continue to function notwithstanding any vacancy thereon provided that the requisite quorum is present.
- (2) No failure to give notice or other defect in the calling of any meeting of any Governing Body within the Union shall invalidate the proceedings thereof unless such failure or defect results in the non-attendance of some member or members otherwise able and willing to attend. Provided that any such failure or defect may be waived by such member or members.
- (3) All communications sent to members or Office Bearers pursuant to the provisions of any of these Rules, may be sent to such member or Office Bearer at the last address notified by him/her to the Union.
- (4) Except where the Rules provide for a specific form of communication, all communications to members or Office Bearers may be sent by post, telegraph, telex, facsimile transmission or other like means and shall be deemed to have been received by such member or Office Bearer in the ordinary course of post, telegraph, telex, facsimile transmission or like means, as the case may be.
- (5) Except in the case of disciplinary proceedings under Rule 69, no decision or proceeding of any Governing Body provided for under these Rules shall be invalidated by the presence at or participation of any person not entitled to be present or to participate therein if, apart from such person, the requisite quorum was present and the vote of such a person did not determine the decision or the result of the proceedings.

81 - SEAL AND EXECUTION OF DOCUMENTS

- (1) The Union shall have a common seal which shall be kept in the custody of the National Secretary. The seal shall be affixed to any document required to be under seal, by the National President and the National Secretary or by such other member or members of the National Council as may be determined by the Council.
- (2) A Branch of the Union may have a common seal and, where it does so, such seal shall be kept in the custody of the Branch Secretary. A Branch seal shall be affixed to any document required to be under seal by the Branch President and the Branch Secretary or by such other member or members of the Branch Council as may be determined by the Council.
- (3) National documents not required to be under seal shall be executed on behalf of the Union by the National Secretary or in his/her absence by the National President, whose signature shall be attested to by one other member of the National Executive.
- (4) Branch documents not required to be under seal shall be executed on behalf of the Branch by the Branch Secretary or in his/her absence by the Branch President, whose signature shall be attested to by one other member of the Branch Executive.

82 - PRESS RELEASES AND MEDIA COMMENT

- (1) The National Secretary shall be the Office Bearer to issue all press releases and make all media comment on behalf of the Union and no other Office Bearer or member shall issue such releases or make such comment without the express authorisation of the National Secretary.
- (2) Notwithstanding the provisions of Sub-Rule 82(1) and subject to the provisions of Parts X to XVI, the Branch Secretary may issue press releases and make media comment in relation to matters affecting the Branch only and no other Branch Office Bearer or member shall issue such releases or make such comment on behalf of the Branch without the express authorisation of the Branch Secretary.

83 - ARBITRATION PROCEEDINGS

- (1) The National Executive may determine that an industrial dispute or matter be submitted to the Fair Work Commission or other proper body.
- (2) In between meetings of the National Executive, the National Secretary shall have the power to determine that disputes or matters be submitted to the Fair Work Commission or other proper body provided that any actions taken are reported to the next meeting of the National Executive.
- (3) The Union may be represented before the Fair Work Commission or other Tribunal by such Office Bearers or employees or agents as the National Executive or, in the case of matters submitted pursuant to Sub-Rule 83(2), the National Secretary, determines.
- (4) Where the Union, or a Branch of the Union participates in a State Industrial system, then the Branch Executive may determine that an industrial dispute or matter be submitted to the State Industrial Relations Commission or other proper body. In between meetings of the Branch Executive, the Branch Secretary shall have power to submit disputes or matters to such Commission or other body. The Union or the Branch may be represented before such Commission or other body by such Office Bearers or employees or agents as the Branch Executive or, in the case of disputes or matters submitted by the Branch Secretary, as the Branch Secretary may determine.

84 - AGREEMENTS WITH OTHER ORGANISATIONS

The Union may, by resolution of the National Council or the National Executive, enter into any agreement that is not contrary to law with any registered or unregistered trade union, industrial union or organisation, peak council, employer, employer body or like organisation and, without limiting the generality of the foregoing, may enter into agreements pursuant to the provisions of Section 151 of the RO Act or any statutory provision amending, replacing or supplementing that provision.

85 - GENERAL MEETINGS OF MEMBERS AND MEETINGS OF COMMITTEES

- (1) The Branch and each Branch Division may hold an Annual General Meeting in July of each year. The Branch Council or the Branch Divisional Committee, as the case may be, shall present a report on the business of the preceding year at such Annual General Meetings.
- (2) A Special General Meeting of members of the Branch may be called by the Branch Council and shall be called by the Council upon receipt of a requisition signed by at least ten per cent of the financial members of the Branch.

A Special General Meeting of members of the Branch may be called by the Branch Council and shall be called by the Council upon receipt of a requisition signed by at least ten per cent of the financial members of the Branch.

- (2a) A Special General Meeting of members of the Branch shall be called by the Branch Secretary where the meeting is requisitioned to consider the auditor's report, the general purpose financial report, and the operating report in relation to the Branch, by at least 5% of the members of the Branch.
- (2b) Upon receipt of a written request signed by no less than 5% of the whole membership of the union calling for a general meeting for the purpose of considering the auditor's report, the general purpose financial report and the operating report, the National Secretary shall summon a meeting of the members of the union by giving 21 days notice to the members of the union of the meeting. Such meeting may be held with the use of video or similar technology, or in a series of meetings held in major metropolitan and regional areas where members are employed. The result of such series of meetings is to be aggregated.
- (3) A Special General Meeting of members of a Branch Division may be called by a Branch Divisional Committee and shall be called by the Committee upon receipt of a requisition signed by at least ten per cent of the financial members of the Branch Division concerned.
- (4) A resolution of a duly convened meeting of members of a Branch Tram and Bus Division at which no less than ten per cent of the financial members of the Branch Division are in attendance shall be binding on the Branch Divisional Committee.
- (5) A Special General Meeting of members of a Sub-Branch or a Branch Sub-Division may be called by a Sub-Branch or Sub-Divisional Committee, as the case may be, and shall be called by the Committee upon receipt of a requisition signed by at least ten per cent of the financial members of the Sub-Branch or the Branch Sub-Division, as the case may be.
- (6) A Branch Secretary, a Branch Divisional Secretary, a Sub-Branch Secretary or a Sub-Divisional Secretary, as the case may be, shall give members not less than seven days notice of the time, place and business of a General Meeting.
- (7) No business shall be transacted at a Special General Meeting of members other than that stated in the notice convening the meeting.

- (8) Unless specific provision is made elsewhere in these Rules, a meeting of any committee of the Union shall be summoned by the relevant secretary or, if no such Office exists in relation to the committee, the chairperson of that committee sending a notice to all members of the committee, not less than seven days prior to the date of the meeting.

86 - PLEBISCITES: CONTROL OF GOVERNING BODIES

- (1) A plebiscite of members shall be held to review a decision of a Governing Body of the Union if:-
- (i) in the case of a decision of the National Council or the National Executive, such a plebiscite is called for by any four Branch Councils or by Special Meetings of members of Branches, which Branches together represent more than half the Branches of the Union and more than half of the membership of the Union;
 - (ii) in the case of a decision of a Branch Council or a Branch Executive, such a plebiscite is called for by more than half of the Branch Divisional Committees or by Special Meetings of members of Branch Divisions, which Branch Divisions together represent more than half of the Divisions of the Branch and more than half of the membership of the Branch.
 - (iii) in the case of a decision of a Branch Divisional Committee, a plebiscite is called for by more than half of the Branch Sub-Divisional Committees or by Special Meetings of members of the Branch Sub-Divisions, which Branch Sub-Divisions together represent more than half of the Sub-Divisions of the Branch Division and more than half of the membership of the Branch Division.
- (2) A plebiscite shall be held within three months of the receipt by the National Secretary, in the case of a plebiscite to review a decision of the National Council or the National Executive, or the Branch Secretary in the case of a plebiscite to review a decision of the Branch Council, the Branch Executive or a Branch Divisional Committee, of advice that the requirements specified in Sub-Rule 86(1) have been met.
- (3) A plebiscite shall be conducted by the National Returning Officer in the case of a plebiscite to review a decision of the National Council or the National Executive and by the Branch Returning Officer in the case of a plebiscite to review a decision of the Branch Council, the Branch Executive or a Branch Divisional Committee.
- (4) The subject matter of a plebiscite shall be that a decision or resolution of the Governing Body be set aside.
- (5) The electorate in relation to a plebiscite called pursuant to this Rule shall be:-
- (i) in the case of a decision of the National Council or the National Executive, the entire financial membership of the Union;
 - (ii) in the case of a decision of a Branch Council or the Branch Executive, the entire financial membership of the Branch;
 - (iii) in the case of a decision of a Branch Divisional Committee, the entire financial membership of the Branch Division.

- (6) A plebiscite shall be conducted by a secret postal ballot and the provisions of Rule 73 shall apply in relation to the ballot, except to the extent that they are clearly inapplicable.
- (7) A plebiscite is carried if a majority of members voting vote in favour.
- (8) A decision of the members by plebiscite is binding on a Governing Body whose decision was the subject of the plebiscite.

87 - AMENDMENT TO RULES

- (1) Except as provided in this Rule, the National Council shall have power to rescind, alter or amend these Rules in accordance with the procedure set out in Sub-Rule 87(2).
- (2) Any rescission, alteration or amendment to these Rules shall be of no effect unless it complies with the following provisions:-
 - (i) the National Secretary shall forward all members of the National Council written notice of the proposed rescission, alteration or amendment which sets out the proposal in full;
 - (ii) such notice shall specify the time and place of the National Council meeting which is to consider the proposal or the details of the ballot which is to determine the matter, which meeting or ballot shall be not less than one month after the date of the notice;
 - (iii) the voting meets the requirements of these Rules for carriage of a resolution at a meeting or ballot of the National Council.
- (3) Any rescission, alteration or amendment to Sub-Rules 6(5) and 6(7) or to Sub-Rules 21(4) 21(6), 21(8) and 21(11) or to Sub-Rules 87(1), 87(3) and 87(4), shall be of no effect unless, in addition to complying with Sub-Rule 87(2), it is ratified by at least four (4) Branch Councils.
- (4) Any rescission, alteration or amendment to any provisions of these Rules which relate to National Divisions or Branch Divisions, including this Sub-Rule 87(4), shall be of no effect unless, in addition to complying with Sub-Rule 87(2), it is ratified by the National Divisional Committees and the Branch Divisional Committees of the National or Branch Division(s) affected.
- (5) Subject to Sub-Rule 87(6), the relevant Branch Council shall have power to rescind, alter or amend the Branch Rules contained within Parts X to XVI of these Rules in accordance with the procedure set out in Sub-Rule 87(2), but with the reference to the National Secretary becoming a reference to the Branch Secretary and the reference to the National Council becoming a reference to the Branch Council.
- (6) Any rescission, alteration or amendment to Branch Rules shall be of no effect unless and until it is ratified by the National Council.

88 - INTERPRETATION OF RULES

- (1) The National Council shall have power to interpret any of these Rules and to determine any matter relating to the Union on which the Rules are silent.
- (2) Any interpretation of these Rules by the National Council shall be regarded as definitive and shall bind the Union, its Office Bearers and its members.
- (3) Every interpretation of the Rules or declaration on matters on which the Rules are silent shall be recorded in the Minutes of the National Council and no such interpretation or declaration shall have any affect unless it is so recorded.
- (4) A Branch Council shall have power to interpret the relevant Branch specific provisions in Parts X to XVI of these Rules. Any such interpretation shall be recorded in the minutes of the Branch Council and shall have no effect unless it is so recorded. Further, any such interpretation is subject to the over-riding authority of the National Council as specified in Sub-Rule 88(1).

89 - INCONSISTENCY OF RULES

In the event of any inconsistency between Parts I to V, VII to IX and XVI of these Rules, the interpretation of these Parts of the Rules or any declaration in relation to matters on which these Rules are silent and the Rules of any Branch in Parts X to XV of these Rules, the former shall prevail.

90 - STANDING ORDERS AND RULES OF DEBATE

- (1) The following order of procedure shall be adhered to as far as practicable at all meetings within the Union:-
 - (i) The Chairperson shall take the chair for the meeting and upon ascertaining that a quorum is present shall then declare the meeting open for the transaction of business.
 - (ii) Attendance and apologies.
 - (iii) Receipt of Minutes of Previous Meeting.
 - (iv) Adoption of Minutes of Previous Meeting.
 - (v) Business arising from the Minutes.
 - (vi) Correspondence.
 - (vii) Financial statements and accounts.
 - (viii) Reports.
 - (ix) General business.

- (2) Except as provided in Sub-Rule 90(3), the following Rules of Debate shall be observed at all meetings within the Union:-
- (i) No motion or amendment shall be entertained or discussed until it has been seconded and one amendment only shall be entertained at the one time but all amendments shall be considered and be put before the original motion. Amendments shall be considered in the order they are received by the Chair.
 - (ii) On the adoption of any amendment it shall be held to have quashed the original motion and, for all purposes of subsequent discussion, the amendments so carried shall be acted upon as the original motion.
 - (iii) No amendment shall be received by the Chairperson which is a direct negative to a motion which has been moved and seconded or does not preserve the substance of such motion.
 - (iv) In the event of the voting on any motion or amendment being equal, it shall be deemed to have been decided in the negative and shall be declared lost.
 - (v) At any meeting, five of the members present shall have the power to demand a division on any question.
 - (vi) Notices of Motion for debate shall be signed and handed to the Chairperson during the meeting. The member making such shall read it aloud and the Chairperson shall consider whether it is in order. A Notice of Motion shall not be proceeded with in the absence of the mover unless some other member present and duly authorised in writing which has been submitted to the Chairperson, takes up the motion in his/her absence.
 - (vii) To rescind any resolution previously passed and confirmed, a month's notice must be given.
 - (viii) Any resolution may be recommitted during the period of the meeting at which it was passed on the affirmative votes of two-thirds of those present at such meeting.
 - (ix) No member shall be allowed to speak more than once on any motion except strictly in explanation of or in contradiction of a mis-statement excepting the mover of the original motion, who shall have the right to reply and be allowed ten (10) minutes to open and five (5) minutes to reply. No other speaker shall occupy a longer period than five (5) minutes. The meeting may however by resolution put by the Chairperson on the proposition of two members and without debate, grant an extension of the time prescribed under this paragraph for a member to speak.
 - (x) No further discussion shall take place nor shall questions be allowed after the mover has replied. When a motion is moved, the mover and the seconder shall have the right to speak. If no-one rises to speak in opposition, the motion shall be put but should debate ensue, the order shall thereafter be alternately one for and one against.

- (xi) On any member rising to a point of order during a discussion, the speaker shall sit down and a person on rising shall state the point of order upon which the Chairperson shall rule which ruling shall be final provided it is not disagreed with by the majority of members present.
- (xii) Every member who proposes or seconds any motion or amendment or who takes part in any discussion or puts replies to any question or makes any statement or any address or observation at any meeting shall while doing so, stand up, (unless prevented by bodily infirmity) and shall address himself/herself to the Chairperson of the meeting. Every member attending any such meeting shall conduct himself/herself in an orderly manner.
- (xiii) Any member acting contrary to any of the rules of debate or using improper language shall be called to order and should he/she persist he/she shall be asked to withdraw from the meeting.
- (xiv) Voting at all meetings shall be by a show of hands, or by a division if called pursuant to paragraph (v).
- (xv) When a motion of dissent from the Chairperson's ruling is moved and formally seconded, only the mover of such motion shall be heard in support of it after which the Chairperson shall be heard in reply and the motion shall then be put to the vote.
- (xvi) No subject or matter shall occupy the meeting for a longer period than sixty (60) minutes, unless an extension is agreed to by a majority of members present at such meeting.
- (xvii) The adjournment of the debate upon any matter under discussion may be moved for a given time after the question has been debated for any period up to twenty minutes but upon any motion being so determined, the subsequent time taken in debate shall not exceed the period set down in paragraph (xvi).
- (xviii) Members in their addresses shall not refer to individual members by name (this is to prevent points of order or personal explanations).
- (xix) 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.
- (xx) Any member who has not previously spoken in the debate shall have the right to move "that the question be now put" at any time during the course of debate. Such motion if seconded shall be put to the meeting without discussion and if carried, the motion before the meeting shall be put without further discussion, after the mover of the original motion has been given the opportunity of closing the debate.
- (xxi) Any member desiring to correct an alleged mis-statement during any debate shall not be permitted to do so until the speaker has resumed his/her seat.
- (xxii) A motion to suspend standing orders or rules of debate in order to deal with any matter may be moved at any time during the currency of the meeting.

- (3) Where a meeting of a Governing Body is held via telephone conference or video conference in accordance with these Rules, then the provisions of Sub-Rule 90(2) shall only apply to the extent practicable.

PART X - NEW SOUTH WALES BRANCH: SPECIFIC PROVISIONS

91 - APPLICATION

This Part applies specifically to the New South Wales Branch of the Australian Rail, Tram & Bus Industry Union. The provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

92 - DEFINITIONS

The following specific definitions shall apply in relation to this Part:-

"Branch" means the Australian Rail, Tram and Bus Industry Union, New South Wales Branch.

"District" means a geographical area within the Branch.

"Metropolitan District" means the District comprising the South Coast Line to Nowra and Port Kembla, the Unanderra-Moss Vale Line but excluding Moss Vale to Maldon on the Main Southern Line, to Lithgow on the Main Western Line, to Gosford on the Main Northern Line and any Branch lines within the boundaries of this District.

"North Coast District" means the District from and including Paterson on the Main North Coast Line to Brisbane and Branch lines.

"Northern District" means the District commencing at and including Narara and embracing the Main Northern Line to Wallangarra, the North Western Line and Branch lines and the Main North Coast Line to Brisbane and Branch lines.

"Southern District" means the District commencing at and including Picton and embracing the Main Southern Line to Albury and all Branch lines south of Picton including the Harden-Blayney Line up to and including Young, the Stockinbingal-Forbes Line up to and including Garema and the Hillston-Roto Line up to and including the Lowlands.

"Western District" means the District commencing at and including Bowenfells and embracing the Main Western Line to Bourke and all Branch lines west of Lithgow including the Binnaway-Werris Creek Line up to and including Turilawa, the Blayney-Harden Line up to and including Burrangong, the Forbes-Stockinbingal Line to Grawlin Plains and the Broken Hill Line.

93 - NAME OF BRANCH

The name of the Branch shall be:-

"Australian Rail, Tram and Bus Industry Union, New South Wales Branch"

94 - BRANCH OFFICE

The Branch office shall be located at Level 4, 321 Pitt Street Sydney, New South Wales or at such other place as is determined by the Branch Council from time to time.

95 - BRANCH DIVISIONAL OFFICES

The Branch Divisional offices shall be located as specified hereunder or at such other places as are determined by the Branch Council from time to time:-

<u>Branch Division</u>	<u>Branch Divisional Office</u>
Administrative, Supervisory, Technical and Professional	Level 4, 321 Pitt St Sydney 2000.
Infrastructure	Level 4, 321 Pitt St Sydney 2000.
Locomotive	Level 4, 321 Pitt St Sydney 2000.
Rail Operations	Level 4, 321 Pitt St Sydney 2000.
Tram & Bus	83-89 Renwick Street, Redfern, Sydney.
Fleet Manufacture, Overhaul, Maintenance and Service	Level 4, 321 Pitt St Sydney 2000.

96 - BRANCH MEMBERSHIP

The Branch shall comprise all members of the Union whose usual place of work is located within the boundaries of the New South Wales Branch as determined from time to time by the National Council pursuant to Rule 6.

97 - BRANCH STRUCTURE AND ORGANISATION

- (1) The Branch shall be principally organised on a Branch, a Branch Divisional, a Sub-Branch and a Sub-Divisional basis.
- (2) The Branch Divisions shall be as follows:-

Administrative, Supervisory, Technical and Professional
 Infrastructure
 Locomotive
 Rail Operations
 Tram & Bus
 Fleet Manufacture, Overhaul, Maintenance and Service

with the scope of each Division being as defined in Rule 6.

98 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH COUNCIL

- (1) The Branch Council shall comprise the Branch President, the Senior Branch Vice-President, the Junior Branch Vice-President, the Branch Secretary, the Assistant Branch Secretaries, the Presidents of each Branch Division, the Secretaries of each Branch Division, one affirmative action (woman) from the Tram & Bus Division, one affirmative action (woman) from the Rail Divisions, one delegate from the Administrative, Supervisory, Technical and Professional Division in STA Group together with Delegates from Branch Divisions determined in accordance with Sub-Rule 98(2).
- (2) For the purpose of electing Delegates to the Branch Council, each Branch Division, other than the Tram & Bus Division, shall be divided into Districts as provided for in Sub-Clause 98(3). The Branch Tram & Bus Division and each Branch Divisional District as specified in Sub-Clause 98(3) shall, subject to Sub-Clause 98(4), be entitled to one Delegate for each eight hundred members or part thereof. The number of Delegates to which the Branch Tram & Bus Division or a Branch Divisional District is entitled, shall be determined on the basis of the number of financial members within the Branch Division or the Branch Divisional District, as the case may be, at the end of the quarter immediately preceding the date for the opening of nominations for the election of Delegates.

99 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (3) The Branch Divisional Districts for the purpose of electing Delegates to the Branch Council shall be as follows:-

Branch Division

Administrative, Supervisory,
Technical and Professional

Branch Divisional Districts

Metropolitan District, Northern District,
Western and Southern Districts combined.
STA Group.

Infrastructure

Metropolitan District, Northern District other
than North Coast District, North Coast
District, Western District, Southern District.

Locomotive

Metropolitan District, Northern District,
Western District, Southern District.

Rail Operations

Metropolitan District, Northern District,
Western District, Southern District.

Fleet Manufacture, Overhaul
Maintenance and Service

Metropolitan District, Northern,
Western and Southern Districts combined.

- (4) Where the Branch Council determines that the number of members in a Divisional District or Districts, other than a Metropolitan District, is too small to warrant a Delegate to the Branch Council, the Council may combine such District or Districts with another non-Metropolitan District or Districts, whether in the same or a different Branch Division, for the purpose of forming an electorate for the election of Council Delegates.
- (5) The Branch Council shall meet in Ordinary Session at least twice a year at such time and place as the Branch Council or, in the absence of a decision by the Branch Council, the Branch President and the Branch Secretary jointly, may determine provided that the Branch Executive may vary the date so determined where circumstances so require.

99 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall comprise the Branch President, the Senior Branch Vice-President, the Junior Branch Vice-President, the Branch Secretary, the Assistant Branch Secretaries, the Presidents of each Branch Division and the Secretaries of each Branch Division.
- (2) The Branch Executive shall meet in Ordinary Session at least six times a year at such time and place as the Branch Executive or, in the absence of a decision by the Branch Executive, the Branch President and the Branch Secretary jointly, may determine.

100 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH DIVISIONAL COMMITTEES

- (1)_ The Branch Divisional Committee shall comprise the Branch Divisional President, the Branch Divisional Vice-President, the Branch Divisional Secretary and Representatives of each Sub-Division within the Division. The Branch Locomotive Divisional Committee shall be referred as the Branch Locomotive Divisional Council, further, the Branch Locomotive Division shall have two Assistant Branch Divisional Secretaries who shall be members of that Branch Divisional Council.
- (2) Subject to Rule 59, each Sub-Division shall be entitled to one Representative on the Branch Divisional Committee.
- 3) Subject to any restrictions that may be imposed by the Branch Council or the Branch Executive, a Branch Divisional Committee may meet in Ordinary Session with such frequency and at such times and places as the Committee or, in the absence of a decision by the Committee, as the Branch Divisional President and the Branch Divisional Secretary jointly, may determine.
- (4) The Branch Divisional Committees shall be comprised as follows:

Tram and Bus Division:

Branch Divisional President
 Branch Divisional Vice President
 Branch Divisional Secretary

One Sub-divisional representative from each of the following depots:

Mona Vale
 Brookvale
 Willoughby
 North Sydney
 Kingsgrove
 Ryde
 Leichhardt
 Belmont
 Hamilton
 Waverley
 Randwick
 Port Botany
 Burwood
 Pyrmont (Sydney Light Rail)
 Tempe

Locomotive Division:

Branch Divisional President
 Branch Divisional Vice-President (Freight)
 Branch Divisional Vice-President (Passenger)
 Branch Divisional Secretary
 Assistant Branch Divisional Secretary (Freight)
 Assistant Branch Divisional Secretary (Passenger)

The Divisional Executive shall meet in ordinary session up to 4 times per year or more often as determined by the Divisional Executive.

In addition to the above, the Branch Locomotive Divisional Council shall comprise a Representative from each Sub-Division within the Locomotive Division as set out in the following schedule.

One representative from each of the following:

- North Coast Group comprising all sub-division members (excluding NSW Trains) within the boundaries of Brisbane and Taree.
- Western Group comprising all sub-division members (excluding Sydney and NSW Trains) within the boundaries of Broken Hill, Bathurst, Lithgow and Parkes.
- North-West Group comprising all sub-division members (excluding NSW Trains) within the boundaries of Narrabri, Werris Creek, Dubbo, Cobar and Gunnedah, Quirindi and Willow Tree.
- South-West Group comprising all sub-division members (excluding NSW Trains) within the boundaries of Griffith, Temora, Junee, Goulburn, Jindabyne, Canberra, Albury and Moss Vale.
- Central Group comprising all sub-division members (excluding NSW Trains) within the Boundaries of Hunter Valley, Mudgee, Port Waratah and Newcastle.
- Metropolitan Group 1 comprising all sub-division members (excluding Sydney and NSW Trains) within the boundaries of Sydney, Botany, Wollongong, Pt Kembla and Nowra.
- NSW Trains/InterCity Group comprising all InterCity sub-divisions which includes the depots of Lithgow, Mt Victoria, Newcastle Interchange, Gosford, Moss Vale, Wollongong and Eveleigh.
- NSW Trains/CountryLink Group comprising all CountryLink sub-divisions which includes the depots of Dubbo, Goulburn, Grafton, Junee, Taree, Werris Creek, Sydney and Canberra.
- Sydney Trains/ETR Group 1 comprising the sub-divisions of Blacktown, Penrith, Richmond and Hornsby.
- Sydney Trains/ETR Group 2 comprising the sub-divisions of Campbelltown, Leppington, Flemington and Auburn Stabling Yard (ASY)

- Sydney Trains/ETR Group 3 comprising the sub-divisions of Central and Nth Sydney
- Sydney Trains/ETR Group 4 comprising the sub-divisions of Cronulla, Mortdale and Waterfall.

The Branch Locomotive Divisional Council shall meet in ordinary session up to 4 times per year or more often as determined by the Locomotive Divisional Council or Divisional Executive.

Locomotive Divisional Sub-Committees

The following Sub-Committees shall operate within the Locomotive Division: Electric Train Drivers Committee (ETDC); Regional Passenger Drivers Committee (RPDC); and Freight Drivers Committee (FDC).

The ETDC, RPDC Sub-Committees shall comprise the elected Depot Organisers and Workplace Organisers within the relevant sub-divisions. These Sub-Committee positions shall be automatically filled following the declaration of each election.

The FDC shall comprise of a Sub-Divisional Representative for each three hundred (300) or part thereof members employed by a freight company and/or geographic group/s as determined by the Branch Locomotive Divisional Council and endorsed by Branch Council prior to each election.

The Divisional Sub-Committees shall meet in ordinary session up to 3 times per year or more often as determined by the Locomotive Divisional Council.

Locomotive Division Sub-Divisions

The Branch Locomotive Divisional Council may establish Sub-Divisions and where formed they shall consist of a Depot Organiser for workplaces of greater than 20 financial members or a Workplace Organiser for workplaces of less than 20 financial members.

The Branch Locomotive Divisional Council may determine the structure required in each sub-division.

The Branch Locomotive Sub-Division shall determine the number of committee members to be part of the Sub-Divisional Committee. Sub-Divisional Committee members will be elected by the financial members of the Sub-Division within two calendar months following the declaration of the ballot for the positions of: Depot Organiser for workplaces of greater than 20 financial members. The election for Sub-Divisional Committee members (and a Workplace Organiser for workplaces of less than 20 financial members) shall be conducted by that sub-division.

Rail Operations Division:

Branch Divisional President
 Branch Divisional Vice President
 Branch Divisional Secretary

Train Guards Sub Division

Branch Sub Division President
 Branch Sub Division Vice President
 Branch Sub Division Secretary

The Branch Train Guards Sub-Division shall comprise of the Branch Sub-Division President, Branch Sub-Division Vice President, Branch Sub-Division Secretary and one Depot Sub Division Secretary from the following depots who will be elected every four years in accordance with Part VIII of these Rules and shall hold Office until their successors are declared

Blacktown
 Campbelltown
 Cronulla
 Flemington Maintenance Centre
 Gosford
 Hornsby Maintenance Centre
 Lithgow
 Leppington
 Mortdale Maintenance Centre
 Moss Vale
 Mount Victoria
 Newcastle Interchange
 North Sydney
 Penrith
 Richmond
 Central
 Sydney Inter-City
 Waterfall
 Wollongong
 Auburn Stabling Yard (ASY)

Apart from the Depot Sub Division Secretary, each Depot Sub Division will elect one Depot Sub Division President and one Depot Sub Division Vice-President who will be elected by the financial members of that Depot Sub-Division within two (2) calendar months following the declaration of the ballot for the Train Guards Sub-Division Executive positions and the Depot Sub Division Secretary positions by a ballot conducted in the workplace.

Customer Service Attendants Sub Division

Branch Sub Division President
 Branch Sub Division Vice President
 Branch Sub Division Secretary

The Customer Service Attendants Branch Sub Division President, Sub Division Vice President and Branch Sub Division Secretary will be elected every four years in accordance with Part VIII of these Rules and shall hold Office until their successors are declared elected.

The Customer Service Attendants Sub Division will also have ten (10) Sub Depots. These Sub Depots will represent all members of the Customer Service Attendants Sub Division in the following boundaries:

1. City Circle – The borders will be Redfern and Wynyard.
2. Berowra – The borders will be all stations Milson Point to Berowra via the North Shore Line as well as all stations from North Strathfield to Berowra via the main North Line.
3. Olympic Park – The borders will be all stations from Macdonaldtown to Olympic Park then all stations from Olympic Park to Carlingford, all stations from Carlingford to Carramar and all stations from Carramar to ESRKINEVILLE via the Bankstown Line.
4. Waterfall – The borders will be all stations from Tempe to Waterfall; inclusive of the Cronulla Line.
5. Macarthur – The borders will be all stations from Turella to Macarthur, and all stations from Macarthur to Leppington and all stations from Leppington to Merrylands.
6. Emu Plains – The borders will be all Stations from Granville to Richmond and all stations from Richmond to Emu Plains.
7. Lithgow – The borders will be all stations from Lapstone to Lithgow.
8. Moss Vale – The borders will be all stations from Menangle Park to Moss Vale.
9. Bomaderry – The borders will be all stations from Helensburgh to Bomaderry.
10. Scone/Dungog – The borders will be all stations from Cowan to Newcastle Interchange, Scone and Dungog.

A workplace representative will be elected by the financial members of that Depot Sub-Division within Customer Service Attendants Sub-Division by the financial members of that Depot Sub-Division within two (2) calendar months, following the declaration of the ballot for the Customer Service Attendants Sub Division Executive positions.

Terminal Operators Sub Division

Branch Sub Division President
 Branch Sub Division Vice President
 Branch Sub Division Secretary

The Terminal Operators Branch Sub Division President, Branch Sub Division Vice President and the Branch Sub Division Secretary will be elected every four years in accordance with Part VIII of these Rules and shall hold Office until their successors are declared elected.

The Branch Secretary will organise elections in the workplace for workplace delegates if the workplace requests a workplace delegate.

Signallers Sub Division

Branch Sub Division President
 Branch Sub Division Vice President
 Branch Sub Division Secretary

The Branch Signallers Sub-Division shall comprise of The Branch Signallers Branch Sub Division President, Branch Sub Division Vice President and Branch Sub Division Secretary, who will be elected every four years in accordance with Part VIII of these Rules and shall hold Office until their successors are declared elected and one representative from the following depots who will be elected by the financial members of the Sub-Division within two (2) calendar months, following the declaration of the ballot for the Signallers Sub-Division Executive positions, by a ballot conducted in the workplace.

Sydney
 Sydenham
 Homebush
 Strathfield
 Hornsby
 Blacktown
 Central Coast (Gosford, Wyong, Newcastle)
 Blue Mountains (Lithgow, Mt. Victoria, Katoomba, Springwood)
 Penrith/St Marys
 Wollongong
 Campbelltown
 Granville/Clyde/Auburn

On-Board Passenger Train Sub Division

Branch Sub Division President
 Branch Sub Division Vice President
 Branch Sub Division Secretary

The On-Board Passenger Train Branch Sub Division President, Branch Sub Division Vice President and Branch Sub Division Secretary will be elected every four years in accordance with Part VIII of these Rules and shall hold Office until their successors are declared elected.

One depot Sub-Division Secretary on the following depots will be elected every four (4) years in accordance with Part VIII of these rules and shall hold office until their successors are declared elected:

Sydney
Albury
Dubbo
Grafton

Transport Officers Sub-Division

Branch Sub Division President
Branch Sub Division Vice President
Branch Sub Division Secretary

The Transport Officers Branch Sub Division President, Branch Sub Division Vice President and Branch Sub Division Secretary will be elected every four years in accordance with Part VIII of these Rules and shall hold office until their successors are declared elected.

A Branch Divisional Committee may establish Sections within the Branch Division or within a Branch Sub-Division in accordance with Rule 60.

The Secretary of each of the Sub Divisions shall be represented on the Branch Divisional Committee. In addition each Sub Division within the Rail Operations Division shall be entitled to a representative on the Branch Divisional Committee as set out in the following schedule.

Train Guards Sub Division	-	1 Representative
Customer Service Attendants Sub Division	-	2 Representatives
Terminal Operators Sub Division	-	1 Representative
Signallers Sub Division	-	1 Representative
On-Board Passenger Train Sub Division	-	1 Representative
Transport Officers Sub Division		1 Representative

Infrastructure Division:

Branch Divisional President
Branch Divisional Vice President
Branch Divisional Secretary

Each Company mentioned below within the Branch Infrastructure Division shall be entitled to a Representative or Representatives on the Branch Divisional Committee as set out in the following schedule:

Sydney Trains	-	10 Representatives
Australian Track Corporation	-	2 Representatives
John Holland Pty Ltd	-	2 Representatives

For the purpose of clarification, the Branch Infrastructure Divisional President, Branch Infrastructure Divisional Vice President and the Branch Infrastructure Divisional Secretary will be included in the above schedule of representative to Branch Infrastructure Divisional Committee.

Fleet Manufacture, Overhaul, Maintenance and Service Division:

Branch Divisional President
Branch Divisional Vice President
Branch Divisional Secretary

Each Group within the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division shall be entitled to a Representative or Representatives on the Branch Divisional Committee as set out in the following schedule:

Metropolitan District Group	- 4 Representatives
(including One Bus Engineering Representative)	
Northern District Group	- 1 Representative
Western District Group	- 1 Representative
Southern District Group	- 1 Representative

Administrative, Supervisory, Technical and Professional Division:

Branch Divisional President
Branch Divisional Vice President
Branch Divisional Secretary

Each Group within the Branch Administrative, Supervisory, Technical and Professional Division shall be entitled to a Representative or Representatives as set out in the following schedule:

Metropolitan District Group	- 7 Representatives
Northern District Group	- 1 Representative
Western District Group	- 1 Representative
Southern District Group	- 1 Representative

- (5) The Districts referred to in Sub-Rule (4) of this Rule, are those geographic locations as set out in Rule 92 - Definitions.
- (6) Where sub-divisions have been formed under this rule they shall meet in ordinary session up to 3 times per year.

(7) Women's Campaign Committee

The Women's Campaign Committee shall promote and pursue Affirmative Action policies for the Union and develop and mentor women leaders in the Union and the industry. The Women's Campaign Committee will also publicly advocate issues for women in the industry.

The Women's Campaign Committee shall meet at least annually and shall be comprised of the Affirmative Action (Woman) Delegate to the Council from the Tram and Bus Division, the Affirmative Action (Woman) Delegate to the Council from the Rail Divisions and one delegate from every Division.

Delegates to the Women's Campaign Committee must be nominated by the respective Divisional Committees. Delegates must also be financial members of the Union

101 - BRANCH OFFICES

(1) The Branch Offices are:-

Branch President
Senior Branch Vice-President
Junior Branch Vice-President

Branch Secretary
Assistant Branch Secretaries
Branch Divisional Presidents
Branch Divisional Vice-Presidents
Branch Divisional Vice President (Freight), Locomotive Division
Branch Divisional Vice President (Passenger), Locomotive Division
Branch Divisional Secretaries
Assistant Branch Divisional Secretary (Freight), Locomotive Division
Assistant Branch Divisional Secretary (Passenger), Locomotive Division
Branch Divisional Delegates to the Branch Council
Sub-Divisional Representatives on a Branch Divisional Committee

(2) The Offices of Branch Secretary, Branch Divisional Secretary, Locomotive Division, Branch Divisional President, Tram and Bus Division, Branch Divisional Secretary Tram & Bus Division, and Branch Organisers shall be paid positions.

(3) Other Branch Offices as specified in Sub-Rule 101(1) shall be honorary positions

102 - SPECIAL PROVISIONS RELATING TO BRANCH OFFICES AND OFFICE BEARERS

(1) Except to the extent modified by this Rule and Sub-Rule 101(3), the provisions of Rules 47, 48, 49 and 50 shall apply in relation to Branch Offices and Office Bearers.

(2) The Senior Branch Vice-President and the Junior Branch Vice-President shall be elected by a secret ballot by and from the members of the Branch Council.

105 - WORKPLACE DELEGATES

- (3) Branch Divisional Delegates to the Branch Council shall be elected by a secret ballot of all the financial members within each Branch Divisional District forming an electorate pursuant to the provisions of Rule 98.
- (4) The Branch Council Delegate Affirmative Action (woman) from the Tram & Bus Division shall be elected by a secret ballot of all financial women members in the STA Group and Sydney Light Rail.

The Branch Council Delegate Affirmative Action (woman) from the Rail Divisions shall be elected by a secret ballot of all financial women members in the Branch Divisions of Administrative, Supervisory, Technical & Professional, Infrastructure, Locomotive, Rail Operations, Fleet Manufacture, Overhaul Maintenance and Service.

103 - BRANCH CONFERENCE

A Branch Conference may be held at such time and place and for such duration as the Branch Council determines. The Conference shall provide a forum for discussing Branch issues and the Conference shall comprise members of the Branch Council together with such other representatives of the Branch Divisions, Branch Divisional Districts, Branch Sub-Divisions and Sub-Branches as the Branch Council may determine.

104 - DUAL OFFICES AND ADDITIONAL DELEGATE

Where, and for such period as, a Branch Divisional Secretary or a Branch Divisional President simultaneously holds any other Branch Office which has membership of the Branch Executive, the Vice-President of the relevant Branch Division shall be an additional delegate on the Branch Executive with full membership rights.

105 - WORKPLACE DELEGATES

- (1) Where groups of workers are working there should be a Workplace Representative or Workplace Delegate who must be a member of the Union. The Workplace Delegate will either be elected by members at a meeting called for that purpose or appointed by the Branch Secretary or his nominee, provided that the election or appointment may be subject to the endorsement of the Branch Secretary.
- (2) Workplace Delegates will be elected by the financial members of the workplace within two (2) calendar months, following the declaration of the AEC ballot, by a ballot conducted in the workplace. The Workplace Delegate shall be elected every four years or for a lesser term as determined by the Branch Executive. Provided that the position of the Workplace Delegate is not invalidated by reason of non-compliance with this sub-rule.
- (3) A Workplace Delegate must supply the Secretary with a permanent address and contact details immediately after appointment and upon any subsequent change.

Power of Secretary to appoint or dismiss Representatives

- (4) Workplace Delegates must act at all times in compliance with the Rules of the Union.
- (5) The Branch Secretary or his nominee has the power to appoint Workplace Delegates and to dismiss any Workplace Delegate who breaches the Rules or who acts contrary to the policies of the Union, whether appointed by the Branch Secretary or elected by a ballot of members. Provided that any person so dismissed has the right of appeal to the Branch Executive.

Return of Union Property

- (6) In the event of any Workplace Delegate leaving the position as Workplace Delegate or leaving the workplace or locality they must communicate with the Branch Secretary and return all Union property in their possession unless they have permission of the Branch Secretary to do otherwise.

Duties of Workplace Representatives/Delegates

- (7) A Workplace Delegate shall act as the union representative in their place or area. In conjunction with the Officers of the Union, the duty of a Workplace Delegate is to advance and protect the interests of the Union and the wages, conditions and welfare of its members by the following means:
 - (i) Promoting the Union, its activities and the benefits of membership, including participating in induction sessions for new employees;
 - (ii) Enlisting persons into the Union at the workplace and maintaining a record of financial membership;
 - (iii) Providing assistance to any member of the Union requiring it, including assisting in the resolution of disputes;
 - (iv) Promoting and campaigning for improved conditions of employment in the workplace and/or industry;
 - (v) Assisting in negotiating enterprise agreements including by preparing members' claims, representing the Union during negotiations and communicating regularly with members and Officers;
 - (vi) Encouraging and promoting the training of Workplace Delegates and of members in matters affecting their conditions of employment and participating in such training where appropriate;
 - (vii) Identify and rectify any breaches of industrial instruments or Union policy or regulation applying at the workplace and if necessary seek assistance from the relevant union official;

- (viii) Identifying and pursuing the rectification of occupational health and safety issues in the workplace;
 - (ix) Distributing or disseminating all notices, newsletters, documents and messages sent by the union;
 - (x) Complying with any reasonable request of an Officer of the Union
- (8) At the request of the Branch Secretary or his/her nominee, a Workplace Delegate may be required to provide a report as to:
- (i) The name, address, work location and contact details of members at the workplace, including information regarding members who have commenced or left employment or changed their contact details;
 - (ii) The names and work locations of all persons employed at the workplace who are eligible to be members of the Union but who are not;
 - (iii) Relevant information regarding the employer, including any changes to the legal status, or address of the employer;
 - (iv) Any breach of the industrial instruments, Union policy or other regulation;
 - (v) Any industrial dispute;
 - (vi) Any matter that concerns the Union or its members.

PART XI - QUEENSLAND BRANCH: SPECIFIC PROVISIONS**107 - APPLICATION**

This Part applies specifically to the Queensland Branch of the Australian Rail, Tram and Bus Industry Union. The provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

108 - DEFINITIONS

"Branch" means the Australian Rail, Tram and Bus Industry Union, Queensland Branch.

"Designated Organising Area Unit" is a geographic unit where a sub-branch does not exist and is outside the geographical area of any Sub branch.

"District" means a geographical area within the Branch.

"Region" means a geographical area within a District or Districts.

109 - NAME OF BRANCH

The name of the Branch shall be:-

"Australian Rail, Tram and Bus Industry Union, Queensland Branch"

110 - BRANCH OFFICE

The Branch office shall be located at 457 Upper Edward Street, Brisbane, Queensland or at such other place as is determined by the Branch Council from time to time.

111 - BRANCH MEMBERSHIP

The Branch shall comprise all members of the Union whose usual place of work is located within the boundaries of the Queensland Branch as determined from time to time by the National Council pursuant to Rule 6.

112 - MEMBERSHIP OF SUB-BRANCHES, DISTRICTS AND REGIONS

- (1) Each member of the Branch shall be a member of that Sub-Branch or a Designated Organising Area Unit which covers the geographical area in which his/her usual place of employment is located.
- (2) Each member of a Sub-Branch or "Designated Organising Area Unit" shall also be a member of the District and/or Region in which his/her Sub-Branch or "Designated Organising Area Unit" is located.

113 - BRANCH STRUCTURE AND ORGANISATION

- (1) The Branch shall be principally organised on a Branch, a Branch Divisional, a District, a Regional, a Sub-Branch or Designated Organising Area Unit and a Sub-Divisional basis.
- (2) The Branch Divisions shall be as follows:-

Administrative, Supervisory, Technical and Professional
 Infrastructure
 Locomotive
 Rail Operations
 Tram and Bus
 Fleet Manufacture, Overhaul, Maintenance and Service

with the scope of each Division being as defined in Rule 6.

- (3) (a) Sub-Branches shall be established in relation to the following areas:-

Townsville
 Bowen
 Cairns
 Cloncurry
 Hughenden
 Mt. Isa
 Rockhampton
 Bluff
 Bundaberg
 Coppabella
 Emerald
 Gladstone
 Mackay/Jilalan
 Brisbane & South East
 Maryborough and
 Toowoomba

(b) Unless otherwise determined by Branch Council:

- Townsville Sub-Branch covers all work locations south of Cairns, north of Bowen and east of Hughenden.
- Hughenden Sub-Branch covers work locations in Hughenden and west to Nonda.
- Cloncurry Sub-Branch covers work locations in Cloncurry and west to Mt Isa.
- Mt Isa Sub-Branch covers all work locations in or around Mt Isa.
- Cairns Sub-Branch covers all work locations in and around Cairns, including work locations west of Cairns including Normanton.
- Bowen Sub-Branch covers all work locations in around Bowen and west to Glenden.
- Mackay/Jilalan Sub-Branch covers all work locations in and around Mackay, west to and including Nebo/Waitara, north to and including Proserpine, South to and including Sarina, Yukan and Jilalan.
- Toowoomba Sub-Branch covers all work locations in and around Toowoomba.
- Rockhampton Sub-Branch covers all work locations in and around Rockhampton, north of Gladstone, south of Sarina/Yukan and east of Bluff.
- Bluff Sub-Branch covers all work locations in and around Bluff and west to and including, Blackwater.
- Emerald Sub-Branch covers all work locations in and around Emerald and all work locations between Emerald and Blackwater.
- Bundaberg Sub-Branch covers all work locations in and around Bundaberg.
- Maryborough Sub-Branch covers all work locations in and around Maryborough.
- Brisbane & South East Sub-Branch covers all work locations in and around Brisbane, South to and including the Gold Coast, east of Toowoomba and south of Maryborough.
- Gladstone Sub- Branch covers all work locations in and around Gladstone and south to Miriam Vale.
- Coppabella Sub-Branch covers all work locations in and around Coppabella and west to and including Moranbah and Dysart.
- The Central Queensland Designated Organising Area Unit covers all work locations in Central Queensland west of Emerald to, and including, Winton.
- The South West Queensland Designated Organising Area Unit covers all work locations in Southern Queensland west and south-west of Toowoomba.
- The Northern Queensland Designated Organising Area Unit covers all work locations in north and west of Cairns.

- (4) The Branch shall be divided into three geographical Districts as follows:-

The Northern District shall comprise the Townsville, Bowen, Cairns, Cloncurry, Hughenden and Mt. Isa Sub-Branched and the Northern Queensland Designated Organising Area Unit;

The Central District shall comprise the Rockhampton, Bluff, Coppabella, Emerald, Gladstone and Mackay/Jilalan Sub-Branched and the Central Queensland Designated Organising Area Unit;

The Southern District shall comprise the Brisbane, Bundaberg, Maryborough, and Toowoomba Sub-Branched and the South West Queensland Designated Organising Area Unit.

- (5) There shall be five geographical Regions within the Branch as follows:-

The North West Region shall comprise the Cloncurry, Hughenden and Mt. Isa Sub-Branched;

The Central West Region shall comprise the Emerald and Bluff Sub-Branched and the Central West Queensland Designated Organising Area Unit;

The Wide Bay Region shall comprise the Maryborough and Bundaberg Sub-Branched;

The South West Region shall comprise the Toowoomba Sub-Branch and the South West Queensland Designated Organising Area Unit.

The South East Region shall comprise the Brisbane & South East Sub-Branch.

- (6) The Queensland Locomotive Division shall be divided into Sub-Divisional Committees as follows,

- Coal
- Freight
- Passenger

Membership of the Locomotive Sub-Divisions will be determined as per rule 6 (15) and rule 8

- Locomotive Sub-Division Coal

1 Member representing Coal Depots in the Northern District
 1 Member representing Coal Depots in the Blackwater and Moura Systems
 2 Member's representing Coal Depots in the Goonyella System Coal Depots
 1 Member representing Coal Depots in the Southern District

- Locomotive Sub-Division Freight

1 Member representing Freight Depots Charters Towers to Mount Isa
 2 Member's representing Freight Depots Mackay to Cairns
 1 Member representing Freight Depots Rockhampton to Winton
 1 Member representing Freight Depots in the Sothern District

- Locomotive Sub-Division Passenger

Suburban Passenger Depot Mayne

1 Driver Representative
 1 Guard Representative

Suburban Passenger Out Depots (Nambour, Caboolture, Petrie, Shorncliffe, Manly, Beenleigh, Robina, Redbank, Gympie, Doomben, Ferny Grove, Richlands and Ipswich)

1 Driver Representative
 1 Guard Representative

1 Member representing Passenger Regional Depots Cairns, Bundaberg and Townsville

114 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH COUNCIL

- (1) The Branch Council shall comprise the Branch President, the Senior Branch Vice-President, the three Junior Branch Vice-Presidents, the Branch Secretary, the Assistant Branch Secretary, together with the following delegates from Branch Divisions and Regions:-

The Branch Divisional President, Tram & Bus Division
 The Branch Divisional Vice-President, Tram & Bus Division
 The Branch Divisional Junior Vice President Tram and Bus Division
 The Branch Locomotive Sub-Divisional Committee Coal Secretary
 The Branch Locomotive Sub-Divisional Committee Passenger Secretary
 The Branch Locomotive Sub-Divisional Committee Freight Secretary
 A Delegate of the Tram and Bus Division
 A Delegate of the Rail Operations Division from the Northern District
 A Delegate of the Rail Operations Division from the Central District
 A Delegate of the Rail Operations Division from the Southern District
 A Delegate of the Infrastructure Division from the Northern District
 A Delegate of the Infrastructure Division from the Central District
 A Delegate of the Infrastructure Division from the Southern District
 A Delegate of the Fleet Manufacture, Overhaul, Maintenance and Service Division from the Northern District
 A Delegate of the Fleet Manufacture, Overhaul, Maintenance and Service Division from the Central District
 A Delegate of the Fleet Manufacture, Overhaul, Maintenance and Service Division from the Southern District
 The Branch Divisional Secretary, Administrative Supervisory, Technical and Professional Division
 A Delegate from the North West Region
 A Delegate from the Central West Region
 A Delegate from the South West Region
 A female delegate from the Southern District (All Divisions)
 A female delegate from the Central and Northern Districts (All Divisions)
 A delegate of the Operations Division from the Private Sector
 The Branch Divisional President, Administrative, Supervisory, Technical and Professional Division
 The Branch Organiser for the Tram and Bus Division whilst so ever that that position is an elected position

- (2) The Branch Council shall meet in Ordinary Session once a year at such time and place as the Branch Council or, in the absence of a decision by the Branch Council, the Branch President and the Branch Secretary jointly, may determine.

115 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall comprise the Branch President, the Senior Branch Vice-President, the three Junior Branch Vice-Presidents, the Branch Secretary and the Assistant Branch Secretary.
- (2) The Branch Executive shall meet in Ordinary Session not less than three times a year at such time and place as the Branch Executive or, in the absence of a decision by the Branch Executive, the Branch President and the Branch Secretary jointly, may determine.

116 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH DIVISIONAL COMMITTEES

- (1) The Branch Divisional Committees shall be comprised as follows:-

Tram and Bus Division:

Branch Divisional Secretary
 Branch Divisional Organiser assigned to the Tram and Bus Division
 Branch Executive Officer
 Junior Vice President for the Tram and Bus Division
 Sub-Divisional Representative from the Carina Bus Depot
 Sub-Divisional Representative from the Toowong Bus Depot
 Sub-Divisional Representative from the Bowen Hills Bus Depot
 Sub-Divisional Representative from the Virginia Bus Depot
 Sub-Divisional Representative from the Garden City Bus Depot
 Sub-Divisional Representative from the Richlands Bus Depot
 Sub-Divisional Representative from Larapinta Bus Depot
 Sub-Divisional Representative from Willawong Bus Depot
 Sub-Divisional Representative from Brisbane Tram Depot
 Sub-Divisional Representative from Gold Coast Tram Depot
 Sub-Divisional Representative from Sherwood Bus Depot
 Sub-Divisional Representative from Trade Coast Bus Depot

Should an existing depot cease to operate then that Sub-Divisional Representative position is retired.

Locomotive Division:

Branch Divisional Secretary
 The Branch Locomotive Sub - Divisional Committee Coal President
 The Branch Locomotive Sub - Divisional Committee Coal Secretary
 The Branch Locomotive Sub - Divisional Committee Passenger President
 The Branch Locomotive Sub - Divisional Committee Passenger Secretary
 The Branch Locomotive Sub-Divisional Committee Freight President
 The Branch Locomotive Sub-Divisional Committee Freight Secretary

Rail Operations Division:

Branch Divisional Secretary
 The Branch Council Delegate from the Northern District
 The Branch Council Delegate from the Central District
 The Branch Council Delegate from the Southern District
 A Representative from the Wide Bay Region
 A Representative from the South West Region
 A Representative from the South East Region
 A Representative from the Private Sector

Infrastructure Division:

Branch Divisional Secretary
 The Branch Council Delegate from the Northern District
 The Branch Council Delegate from the Central District
 The Branch Council Delegate from the Southern District
 A Representative from the Wide Bay Region
 A Representative from the South West Region
 A Representative from the South East Region

Fleet Manufacture, Overhaul, Maintenance and Service Division:

Branch Divisional Secretary
 The Branch Council Delegate from the Northern District
 The Branch Council Delegate from the Central District
 The Branch Council Delegate from the Southern District
 A Representative from the South West Region
 A Representative from the South East Region

Administrative, Supervisory, Technical and Professional Division:

Branch Divisional Secretary
 A Representative from the Northern District
 A Representative from the Central District
 A Representative from the Southern District
 A Representative from the South East Region

- (2) Subject to any restrictions imposed by the Branch Council or the Branch Executive, a Branch Divisional Committee shall meet, in Ordinary Session at least twice a year, or at such time and place on a needs basis as the Committee or, in the absence of a decision by the Committee, as the Branch Divisional President and/or the Branch Divisional Secretary, may determine.

118 - BRANCH OFFICES

- (1) The Branch Offices are:-

Branch President
 Senior Branch Vice-President
 Junior Branch Vice-Presidents
 Branch Secretary
 Assistant Branch Secretaries
 Branch Divisional Presidents
 Branch Divisional Vice-Presidents
 Branch Divisional Secretaries
 Branch Divisional Delegates to the Branch Council
 Regional Delegates to the Branch Council
 Sub-Divisional, District or Regional Representatives on Branch Divisional Committees
 District Executive Presidents
 District Executive Vice-Presidents
 Female Delegates to the Branch Council

- (2) The Offices of Branch Secretary, Assistant Branch Secretary, and Branch Organiser, shall be paid positions.
- (3) Branch Offices, other than those specified in Sub-Rule 118(2), shall be honorary positions.

**119 - SPECIAL PROVISIONS RELATING TO BRANCH OFFICES AND OFFICE BEARERS
AND BRANCH COMMITTEES**

- (1) Except to the extent modified by this Rule, the provisions of rules 47, 48, 49 and 50 shall apply in relation to Branch Offices and Office Bearers.
- (2) There shall be an Assistant Branch Secretary. The Assistant Branch Secretary shall be elected by a secret ballot of all the financial members of the Branch Tram and Bus Division. The Assistant Branch Secretary elected by the members of the Tram and Bus Division shall be the Branch Divisional Secretary of that Division.
- (3) To be eligible to nominate for an Office of Assistant Branch Secretary, a candidate must, in addition to meeting the requirements specified in Rule 47, unless he/she is a candidate seeking re-election, have been employed in the work function represented Branch Tram and Bus Division prior to the date on which nominations open.
- (4) The Senior Branch Vice-President shall be elected by a secret ballot of all the financial members of the Branch.
- (5) There shall be three Junior Branch Vice-Presidents. One Junior Branch Vice-President shall be elected by a secret ballot of all the financial members of the Tram and Bus Division and two Junior Branch Vice-Presidents shall be elected by all the financial members of the Branch.

119 - SPECIAL PROVISIONS RELATING TO BRANCH OFFICES AND OFFICE BEARERS AND BRANCH COMMITTEES

- (6) To be eligible to nominate for an Office of Branch Vice-President, a candidate must, in addition to meeting the requirements specified in Rule 47, be a member of the Branch Division or Divisions which the Office represents on the date on which nominations open.
- (7) Delegates to Branch Council representing the members of a Branch Division within a particular District shall be elected by a secret ballot of all the financial members of that Branch Division within that District.
- (8) Delegates to Branch Council representing a particular Region shall be elected by a secret ballot all the financial members of the Branch within that Region.
- (9) Except where otherwise provided within Branch Divisions, the Branch Divisional President, Branch Divisional Secretary and the Branch Divisional Vice-President shall be elected by a secret ballot by and from the members of the Branch Divisional Committee.
 - a. The President, Vice President and Junior Vice President of the Tram and Bus Division shall be elected from the Sub Divisional Representatives of the Tram and Bus Division by the members of the Tram and Bus Division.
 - b. If a person ceases to be a Sub Divisional Representative of the Tram and Bus Division whilst holding the Office of President, Vice President, or Junior Vice President, they no longer hold those positions.
- (10) Regional or Sub-Branch or Designated Organising Area Unit Representatives on Branch Divisional Committees shall be elected by a secret ballot of all the financial members of the relevant Branch Division within the Region or Sub-Branch(es) and Designated Organising Area Units.
- (11) District Representatives on Branch Divisional Committees, shall be elected by a secret ballot of all the financial members of the relevant Division within the District.
- (12) A candidate for an Office having membership of a District Executive must be a member of a Sub-Branch or Designated Organising Area Unit under the control of the District Executive on the date on which nominations open.
- (14) A female delegate from the Southern District (All Divisions) shall be elected by a ballot of financial female members from within the Southern District (All Divisions). A female delegate from the Central and Northern District (All Divisions) shall be elected by a ballot of financial female members from within the Central and Northern District (All Divisions).

(15) Queensland Branch Affirmative Action Women's Campaign Committee

15.1 The Queensland Branch Affirmative Action Women's Campaign Committee shall consist of:

- (a) 2 Affirmative Action (Women) Southern District Delegates
- (b) 1 Affirmative Action (Woman) Central District Delegate
- (c) 1 Affirmative Action (Woman) Northern District Delegate
- (d) 1 Affirmative Action (Woman) Tram & Bus Division Delegate; and
- (e) 2 Affirmative Action Branch Councillors.

15.2 In addition to the committee members listed any female member of Branch Council may attend meetings of the Queensland Branch Affirmative Action Women's Campaign Committee in an ex-officio capacity. Such Women's Committee ex officio members can participate in committee proceedings but will not be entitled to move or second a resolution or vote.

15.3 Election process:

- (a) Two (2) Affirmative Action Women's Campaign Committee Southern District Delegates (excluding Tram and Bus Division members) elected by and from financial women union members within the Southern District (excluding Tram and Bus Division)
- (b) One (1) Affirmative Action Women's Campaign Committee Central District Delegate elected by and from financial women union members within the Central District
- (c) One (1) Affirmative Action Women's Campaign Committee Northern District Delegate elected by and from financial women union members within the Northern District
- (d) One (1) Affirmative Action Women's Campaign Committee Tram & Bus Division Delegate elected by and from financial women union members within the Tram and Bus Division.

15.4 The Affirmative Action Women's Campaign Committee President and Affirmative Action Women's Campaign Committee Secretary shall be elected in a secret ballot by and from the members of the Affirmative Action Women's Campaign Committee.

120 - ORGANISERS

- (16) Locomotive Sub-Divisional Committee Representatives shall be elected by a secret ballot of all the financial members of that Locomotive Sub-Division within that Area/Location.
- 16.1 Within Branch Locomotive Sub-Divisions, the Sub-Divisional President, Sub-Divisional Secretary and the Sub-Divisional Vice-President will be elected by a secret ballot by and from the Sub-Divisional Committee.
- 16.2 Representation from the Locomotive Sub-Divisional Committees to the Locomotive Divisional Committee will be the Sub -Divisional President and Sub -Divisional Secretary.
- 16.3 Representation to Branch Council from the Locomotive Division will be the Locomotive Sub-Divisional Secretaries.

120 - ORGANISERS

- (1)(a) The Branch Council has authority to increase or reduce the number of Organisers or alter their areas and responsibilities.
- (1)(b) Branch Organisers must be financial members of the Union prior to seeking appointment/election to the position.
- (1)(c) Branch Organisers responsible for Rail Divisions will be appointed or elected by a process determined, from time to time, by Branch Council. Such process shall include a requirement that for any appointment to occur, it must be endorsed by Branch Council.
- (1)(d) There will be a Branch Organisers based in Townsville, Mackay, Rockhampton and Brisbane unless otherwise determined by Branch Council. Rail Branch Organisers' areas of responsibility will be designated by Branch Council.
- (1)(e) The Tram and Bus Division will be supported and assisted by a Branch Organiser.
- (1)(f) An Organiser or another employee shall be appointed under this rule to support a Rail Division of the Branch by the Branch Secretary in consultation with the relevant Division.
- (1)(g) Organisers employed under this rule may be required to undertake other responsibilities and duties as determined by the Branch Secretary.
- (1)(h) All Branch Organisers shall be ex-officio members of the Branch Council but will not have voting rights.

121 - ACTING BRANCH SECRETARY

- (1)(i) There will be a Branch Organiser working with the Tram & Bus Division. The position is created on the same basis as other Branch Organisers under this rule and the continued existence of this position will remain at the discretion of the Queensland Branch Council.

Unless Branch Council determines an alternative method of selection or determines to remove this position, this Branch Organiser position will be subject to an election by members of the Tram & Bus Division every four years at the same time as Branch Officers elections.

The elected position of Branch Organiser cannot be determined by the Branch Council to cease from a date within the current four year term of the elected Branch Organiser position without the agreement of the Branch Tram & Bus Divisional Committee.

- (1)(j) Any grievance over the operation of this sub-clause shall be notified to the Branch Secretary in the first instance. The Branch Secretary shall deal with the matter as expeditiously as possible. Should the aggrieved member be dissatisfied with the decision of the Branch Secretary, the matter may be remitted to the Branch Executive or Branch Council.
- (2) Regardless of any other sub-rules to the contrary and/or inconsistencies with other rules in Part XI, sub-rule 120(1) shall prevail.

121 - ACTING BRANCH SECRETARY

When the Branch Secretary is temporarily unable to fulfil his/her duties by reason of illness, absence on leave or other reason, the Branch Executive shall appoint a Branch Office Bearer to act in the Office for the duration of the absence with such appointee having all the rights and duties of the Office of Branch Secretary.

122 - PROXIES

In addition to the provisions of Rule 67, the following provisions shall apply in relation to proxies:-

- (i) A proxy for a Branch Divisional Representative on a District Executive shall be appointed by the relevant Branch Divisional Committee.
- (ii) A proxy for a Branch Organiser for a particular District shall be appointed by the District Executive.
- (iii) A proxy for a Regional Delegate to the Branch Council shall be appointed by the relevant District Committee.
- (iv) A proxy for a District or Regional Representative on a Branch Divisional Committee shall be appointed by the Branch Divisional Committee.
- (v) Where an Office Bearer for whom a proxy is to be appointed is a member of more than one Branch Governing Body, then, subject to this Rule and Rule 67, a different person may be appointed as proxy in relation to different Governing Bodies.

123 - NOMINATION FOR MORE THAN ONE OFFICE

In any ordinary election, no person shall be eligible to nominate for more than one position having membership of the Branch Council or more than one position having membership of the Branch Executive or more than one position having membership of a Branch Divisional Committee or more than one position having membership of a District Executive or more than one position having membership of a Sub-Branch Committee or more than one position having membership of a Sub-Divisional Committee.

PART XII - SOUTH AUSTRALIAN AND NORTHERN TERRITORY BRANCH:
SPECIFIC PROVISIONS

124 - APPLICATION

This Part applies specifically to the South Australian and Northern Territory Branch of the Australian Rail, Tram and Bus Industry Union. The provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

125 - DEFINITIONS

The following specific definitions shall apply in relation to this Part:-

AMO means Adelaide Metro Operations (Torrens Connect)

“A.R.T.C.” means Australian Rail Track Corporation.

“A.R.T.C. District” shall incorporate all Members employed by the A.R.T.C., Downer EDI, Engenco and Broadspectrum/Ventia.

“Aurizon” shall incorporate all Members employed by Aurizon, Qube Logistics, Rail Train, Bowmans Intermodal and SCT Logistics (including Specialised Bulk Services and Railpro Services).

"Branch" means the Australian Rail, Tram and Bus Industry Union South Australian and Northern Territory Branch.

“Bowmans Intermodal” means Bowmans Balco

"District" means a geographical area within the Branch.

“Downer - EDI” means Downer - EDI Ltd.

“Journey Beyond” means Journey Beyond (Previously Great Southern Railway).

“KDA” means Keolis Downer Adelaide

"Metro Trains District" means all locations where Keolis Downer Adelaide and Rail Commissioner (heavy rail) employees are employed.

“Northern Territory District” means all locations in the Northern Territory where employees are employed.

“ORA” means One Rail Australia (Previously Genesee Wyoming Australia).

“ORA District” means all locations in the South Australian and Northern Territory Branch where ORA employees are employed.

“Pacific National” means Pacific National

128 - BRANCH MEMBERSHIP

“Pacific National District” shall incorporate all Members employed by Pacific National and Journey Beyond in all locations in the South Australian and Northern Territory Branch.

“Qube Logistics” means Qube Logistics.

“Rail Commissioner” means Rail Commissioner.

“Rail Train” means Rail Train

“SCT District” shall incorporate all Members employed by Aurizon, Qube Logistics, Rail Train, Bowmans Intermodal and SCT Logistics (including Specialised Bulk Services and Railpro Services).

“SCT Logistics” means SCT Logistics (including Specialised Bulk Rail and Railpro Services)

“Successorship” means any reference to a business or part of a business in this part is taken to include a reference to any successor, transmittee or assignee of the relevant business or part of the business.

“Tram District” means all locations where Adelaide Metro Operations and Rail Commissioner (Trams) employees are employed.

126 - NAME OF BRANCH

The name of the Branch shall be:-

"Australian Rail, Tram and Bus Industry Union, South Australian and Northern Territory Branch"

127 - BRANCH OFFICE

The Branch office shall be located at 63, Ledger Road, Beverly, South Australia, 5009 or at such other place as is determined by the Branch Council from time to time.

128 - BRANCH MEMBERSHIP

The Branch shall comprise all members of the Union whose usual place of work is located within the boundaries of the South Australian and Northern Territory Branch as determined from time to time by the National Council pursuant to Rule 6.

129 - BRANCH STRUCTURE AND ORGANIZATION

- (1) The Branch shall be principally organised on a Branch District, Branch Regional Sub-Branch, Delegate and Shop Committee basis.

- (2) Branch Regional Sub-Branches shall be established for:-

Adelaide Metro Region (including Tailem Bend, Balaklava, Balhannah and Bowmans)

South Australia and Northern Territory Region (all locations not included in the Adelaide Metro Region) Eyre Peninsula, Port Augusta, Whyalla and the Northern Territory.

130 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH COUNCIL

- (1) The Branch Council shall comprise the Branch President, Branch Vice President, Branch Junior Vice President Metro, Branch Junior Vice President Regional, Branch Vice President (Women), the Branch Secretary, the Branch Organiser (where elected), together with delegates from Branch Districts determined in accordance with Sub-Rule 130(2).
- (2) For the purpose of electing delegates to Branch Council, the Branch shall be divided into Districts as provided for in this sub-clause.

The Districts into which the Branch is to be divided for the purpose of electing delegates to the Branch Council and the number of delegates shall be as follows:-

Branch Districts

ARTC District (but excluding employees in the Northern Territory) - One (1) delegate

Pacific National District (excluding employees in the Northern Territory) - Two (2) delegates, one representing members in the Adelaide Metro region and one representing all other locations in South Australia.

SCT District (excluding employees in the Northern Territory) - One (1) delegate

ORA District – Two (2) delegates, with one representing members in the Adelaide Metro region and one representing all other locations in South Australia.

Tram District – One (1) Delegate

Metro Train District – Two (2) Delegates

Northern Territory District – One (1) delegate

Where the Branch Council determines that the number of members in a Branch District is too small to warrant a delegate to the Branch Council, the Council may combine such District or part of a District with another District for the purpose of forming an electorate for the election of Council Delegates. Branch Council prior to each election, shall review the number of delegates to be elected from each District on the basis of changes to the number of members in a District or combined District.

- (3) The Branch Council shall meet in ordinary session annually at such times and place as the Branch Council or, in the absence of a decision by the Branch Council, the Branch President and the Branch Secretary jointly, may determine, provided that the Branch Executive may vary the date determined where circumstances so require.

131 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall comprise the Branch President, the Branch Vice President, the Branch Deputy Vice-President Metro, the Branch Deputy Vice President Regional, the Branch Vice-President (Women), the Branch Secretary, and the Branch Organiser (where elected).
- (2) The Branch Executive shall meet in Ordinary Session in the months of March, June, September and December (excepting if a Branch Council meets during the same month), at such times and places as the Branch Executive or, in the absence of a decision by the Branch Executive, the Branch President and the Branch Secretary jointly may determine.

132 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH REGIONAL COMMITTEES

- (1) A Branch Regional Sub-Branch Committee shall comprise the Branch Regional Sub-Branch President, the Branch Regional Sub-Branch Vice-President and the Branch Regional Sub-Branch Secretary. A candidate for a position of Branch Regional Sub-Branch President, Vice-President or Secretary must be a financial member of the Union and a member of the Branch Regional Sub-Branch on the date on which nominations open.
- (2) Branch Council or Branch Executive shall determine when Regional Branch Sub-Branch Committees meet in ordinary session and at such times and location. Branch Council shall determine the scope, role and operation of Branch Regional Sub-Branches.

133 - BRANCH OFFICES

- (1) The Branch Offices are:-

Branch President
Branch Vice-President
Branch Vice President (Women)
Branch Deputy Vice President Metro
Branch Deputy Vice President Regional
Branch Secretary
Branch Organiser (where elected)
Branch District Delegates to the Branch Council
Branch Regional Sub-Branch Committee members

- (2) The Office of Branch Secretary shall be a paid position.
- (3) The position of Branch Organiser shall be either a full-time or part-time, paid position.
- (4) Other Branch Offices as specified in Sub-Rule 133(1) shall be honorary positions.

134 - SPECIFIC PROVISIONS RELATING TO BRANCH OFFICES AND OFFICE BEARERS

- (1) Except to the extent modified by this Rule, the provisions of Rules 47, 48, 49, 50 and 51 shall apply in relation to Branch Offices and Office Bearers.
- (2) There shall be a Branch Vice-President (Women) who shall be elected by a secret ballot of all the women financial members of the Branch. To be eligible to nominate for the Office a candidate must be a financial member on the date on which nominations open. The duties of the Branch Vice-President (Women) shall be to promote and work for the involvement of women members within the Branch.
- (3) Branch Organiser: Branch Council shall determine from time to time whether the Branch Organiser is to be a full time or part time position and if full time whether it is to be elected by members or appointed by Branch Council. A part time Branch Organiser shall be appointed by Branch Council.
- (4) Notwithstanding the provisions of Rule 47(3), the terms of Office of honorary positions in the Branch shall be every 4 years.
- (5) Proxies: in addition to the provisions of Rule 67 the following shall apply. A proxy for a Branch District delegate to Branch Council shall be appointed by the Branch Executive. A proxy for Branch Vice-President (Women) shall be appointed by the Branch Executive from among the women members of the Branch.
- (6) Branch District Delegates to the Branch Council shall be elected by a secret ballot of all the financial members within each Branch District forming an electorate in accordance with Rule 130.

136 – DELEGATES AND SHOP COMMITTEES

- (1) In any workshop, depot, station, shunting yard, terminal, infrastructure gang, control centre or office etc where the majority of members so decide those members may appoint a Delegate/s and a Deputy Delegate/s in the months of February/March of each year. In the event of a position of Delegate and/or Deputy Delegate falling vacant or where a petition, presented to the Branch Secretary, signed by at least 50% of financial members of the workplace calling for a new appointment to the position of Delegate and/or Deputy Delegate, the members in the workplace may by majority decision appoint a replacement. All appointments shall be ratified by the Branch Executive.

The duties of Delegates shall be to interview local management representatives for the purposes of securing an adjustment of members' grievances, ensure all awards and enterprise agreements are enforced and to see that company regulations and instructions relating to the welfare of members are observed. Delegates shall notify the Branch Secretary of any matter concerning members at their work location.

- (2) A Shop Committee of not less than three members may be appointed in the month of December for another date so decided by the majority of eligible Members each year where not less than fifteen members are located and where the majority of members so decide. A Shop Committee may have a work function, workplace and/or geographical basis. The appointment of a Shop Committee shall be ratified by the Branch Executive.

The role of such Shop Committee shall be to interview local management representatives for the purpose of securing an adjustment of members' grievances, to ensure all awards and enterprise agreements are enforced and to see that company regulations and instructions relating to the welfare of members are observed. Only matters of a local nature shall be presented to local management representatives, all other being referred to the Branch Secretary.

137 - BRANCH FUNDS

Without limiting the generality of the foregoing, the following real property shall form part of the South Australian and Northern Territory Branch Funds:-

The property of 63 Ledger Road, Beverley SA;

Any such property, or financial accounts as determined from time to time by the Branch Council.

PART XIII - TASMANIAN BRANCH: SPECIFIC PROVISIONS**138 - APPLICATION**

This Part applies specifically to the Tasmanian Branch of the Australian Rail, Tram and Bus Industry Union. The provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

139 - DEFINITIONS

The following specific definitions shall apply in relation to this Part:-

"Branch" means the Australian, Rail, Tram and Bus Industry Union, Tasmanian Branch.

"Honorary" means an unpaid position.

"North West Coast Region" means that geographical region having the telephone prefix 0364.

"Northern Region" means that geographical region having the telephone prefix 0363.

"Southern Region" means that geographical region having the telephone prefix 0362.

140 - NAME OF BRANCH

The name of the Branch shall be:-

"Australian Rail, Tram and Bus Industry Union, Tasmanian Branch"

141 - BRANCH OFFICE AND REGIONAL OFFICE

The Branch office shall be located at Suite 5/113 Main Road, Moonah Tasmania or at such other place as is determined by the Branch Council from time to time.

142 - BRANCH MEMBERSHIP

The Branch shall comprise all members of the Union whose usual place of work is located within the boundaries of the Tasmanian Branch as determined from time to time by the National Council pursuant to Rule 6.

143 - BRANCH STRUCTURE AND ORGANISATION

(1) The Branch shall be principally organised on a Branch, a Branch Divisional, a Regional Branch Divisional and a Branch Sub-Divisional basis.

(2) The Branch Divisions shall be as follows:-

Rail
Tram and Bus

with the scope of each Branch Division being as defined in Rule 6 of these Rules but with the Branch Rail Division, combining the Infrastructure, Fleet Manufacture, Overhaul, Maintenance and Service Division, the Administrative, Supervisory, Technical and Professional Division, the National Locomotive Division and the National Rail Operations Division.

(3) Within the Branch Tram & Bus Division there shall be the following Sub-Divisions:-

Springfield, Launceston, Burnie and Administration/Supervisory.

(4) (a) Due to industry depot rationalisation the Sub-Divisions of City and Mornington will cease to operate in 1995 and the members affected transferred to the Sub-Division of Springfield. Within three months of the closing of the Sub-Divisions of City and Mornington, a ballot be commenced under Rule 75 - Election procedures: Tram and Bus Division to elect a Sub-Division representative to the Branch Divisional Committee from the Sub-Division at Springfield.

(b) The term of office for the Sub-Division representatives from the Sub-Divisions of City, Mornington and Springfield elected at the 1994 election shall expire at the conclusion of the ballot as per Rule 143(4)(a) to be held under Rule 75 - Election Procedures: Tram and Bus Division to elect a Sub-Division representative from the Sub-Division of Springfield whose term expires at the conclusion of the election to be held in 1996.

144 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH COUNCIL

- (1) The Branch Council shall comprise the Branch President, the Branch Secretary, the Assistant Branch Secretary, the Presidents of each Branch Division, the Secretaries of each Branch Division and Branch Divisional Delegates determined in accordance with Sub-Rule 144(2).
- (2) Each Branch Division shall be entitled to one Delegate to the Branch Council for each one hundred members or part thereof. The number of Delegates to which a Branch Division is entitled, shall be determined on the basis of the number of financial members within the Branch Division at the end of the quarter immediately preceding the date for the opening of nominations for the election of Delegates.
- (3) The Branch Council shall meet in Ordinary Session twice a year at such time and place as the Branch Executive or, in the absence of a decision by the Branch Executive, the Branch President and the Branch Secretary jointly, shall determine.

145 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall comprise the Branch President, the Branch Secretary, the Assistant Branch Secretary, the Presidents of each Branch Division and the Secretaries of each Branch Division.
- (2) The Branch Executive shall meet in Ordinary Session at least three times each year at such time and place as the Branch Executive or, in the absence of a decision by the Branch Executive, the Branch President and the Branch Secretary jointly, shall determine.

146 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH DIVISIONAL COMMITTEES

- (1) The Branch Divisional Committee for the Branch Rail Division shall comprise the Branch Divisional President, the Branch Divisional Secretary, one representative of the North West Coast Region, one representative of the Northern Region and one representative of the Southern Region.
- (2) The Branch Divisional Committee for the Tram and Bus Division shall comprise the Branch Divisional President, two Branch Divisional Vice-Presidents, the Branch Divisional Secretary, and a representative from each Sub-Division within the Branch Tram and Bus Division.
- (3) The Branch Divisional Committee for the Branch Rail Division shall meet in Ordinary Session twice a year at such times and places as the Branch Divisional Committee or, in the absence of a decision by the Committee, the Branch Divisional President and the Branch Divisional Secretary jointly, may determine.
- (4) The Branch Divisional Committee for the Tram and Bus Division shall meet in ordinary session four times a year at such times and places as the Branch Divisional Committee or, in the absence of a decision by the Branch Divisional Committee, the Branch Divisional President and the Branch Divisional Secretary jointly, may determine.

147 - BRANCH OFFICES

- (1) The Branch Offices are:-

Branch President
 Branch Vice-President
 Branch Secretary
 Assistant Branch Secretary
 Branch Divisional Presidents
 Branch Divisional Vice-Presidents
 Branch Divisional Secretaries
 Branch Divisional Delegates to the Branch Council
 Sub-Divisional Representatives on a Branch Divisional Committee
 Regional Representatives on a Branch Divisional Committee

- (2) Subject to Sub-Rule 147(4), the Office of Branch Secretary shall be a paid, casual position.
- (3) Other Branch Offices as specified in Sub-Rule 147(1) shall be honorary positions.
- (4) Where a Branch Office is a paid position the Branch Council shall from time to time determine the amount of casual work that will be undertaken by the Branch Secretary.
- (5) The Branch Divisional Secretary of the Division not providing the Branch Secretary shall be ex-officio Assistant Branch Secretary.
- (6) The Assistant Branch Secretary shall relieve the Branch Secretary where and when appropriate as decided by the Branch Executive.

148 - SPECIAL PROVISIONS RELATING TO BRANCH OFFICES AND OFFICE BEARERS

- (1) Except to the extent modified by this Rule, the provisions of Rules 47, 48 and 50 shall apply in relation to Branch Offices and Office Bearers.
- (2) The Branch Vice-President shall be elected by secret ballot of all the financial members of the Branch.
- (3) Within the Branch Tram and Bus Division, one Divisional Vice-President shall be elected by a secret ballot of the financial members of the Branch Sub-Divisions within the Northern and the North West Coast Regions while the other Divisional Vice-President shall be elected by a secret ballot of all the financial members of the Branch Sub-Divisions within the Southern Region.
- (4) Regional Representatives on a Branch Divisional Committee shall be elected by a secret ballot of all the financial members of the Branch Division within the relevant Region.

149 - PROXIES

In addition to the provisions of Rule 67, the following provisions shall apply in relation to proxies:-

- (i) A proxy for the Branch Divisional President of the Branch Tram & Bus Division shall be appointed by the Branch Divisional Committee from the two Branch Divisional Vice-Presidents.
- (ii) A proxy for a Regional Representative on a Branch Divisional Committee shall be appointed by the Branch Divisional Committee.

PART XIV - VICTORIAN BRANCH: SPECIFIC PROVISIONS**150 - APPLICATION**

This Part applies specifically to the Victorian Branch of the Australian Rail, Tram and Bus Industry Union. The provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

151 - DEFINITIONS

The following specific definitions apply in relation to this Part:-

"Branch" means the Australian Rail, Tram and Bus Industry Union, Victorian Branch.

"Metropolitan Area" in relation to representatives on or Delegates to Branch Governing Bodies means the Melbourne Metropolitan Area.

"Region" means a geographical area within the Branch or within a Branch Division or Divisions.

152 - NAME OF BRANCH

The name of the Branch shall be:-

"Australian Rail, Tram and Bus Industry Union, Victorian Branch"

153 - BRANCH OFFICE

The Branch Office shall be located at Level 2, 365 Queen Street Melbourne or at such other place as is determined by the Branch Council from time to time.

154 - BRANCH DIVISIONAL OFFICES

The Branch Divisional Offices shall be located at Level 2, 365 Queen Street Melbourne. The Locomotive Division is located at L6, 1-5 Elizabeth Street Melbourne or at such other places as are determined by the Branch Council from time to time.

155 - BRANCH MEMBERSHIP

The Branch shall comprise all members of the Union whose usual place of work is located within the boundaries of the Victorian Branch as determined from time to time by the National Council pursuant to Rule 6.

156 - BRANCH STRUCTURE AND ORGANISATION

(1) The Branch shall be principally organised on a Branch, a Branch Divisional, a Sub-Branch and a Sub-Divisional basis.

(2) The Branch Divisions shall be as follows:-

Administrative, Supervisory, Technical and Professional
Infrastructure
Locomotive
Rail Operations
Tram and Bus
Fleet Manufacture, Overhaul, Maintenance and Service

with the scope of each Division being as defined in Rule 6.

(3) Each Branch Division shall be divided into Sub-Divisions with each Sub-Division being organised on the basis of depots, sheds or other workplace or geographical location or any other convenient sub-grouping of members within a Branch Division.

(i) Within the Branch Locomotive Division there shall be the following Sub-Divisions:-

Metropolitan (incorporating Epping, Ringwood, Dandenong, Frankston, Broadmeadows, Sydenham and Newport Outstations)

V/LINE PASSENGER

V/Line Passenger Southern Cross
V/Line Passenger Traralgon/Sale
V/Line Passenger Ballarat
V/Line Passenger Seymour (incorporating Wodonga Passenger)
V/Line Passenger Bendigo (incorporating Kyneton Passenger)
V/Line Passenger Geelong

PACIFIC NATIONAL VICTORIAN GENERAL FREIGHT, BULK RAIL AND AURIZON AND GRAIN

Pacific National Central (incorporating Qube Logistics, Aurizon and SCT)
Pacific National Maryborough (incorporating Bendigo, Mildura and Ouyen)
Pacific National Dimboola
Pacific National Geelong

PACIFIC NATIONAL (INTERMODAL)

Pacific National - Wimmera

Pacific National - Melbourne

The Sub-Divisions shall be grouped according to rule 159(4) for the purpose of establishing the Branch Divisional Committee.

- (ii) Within the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division there shall be the following Sub-Divisions:-

Metro

EDI - Workshops

Miscellaneous (comprising members of the Division employed by a business or part of a business which does not otherwise form a Sub-Division in this sub-rule.)

- (iii) Within the Branch Rail Operations Division there shall be the following Sub-Divisions:-

Metro

Pacific National

V/Line Passenger

V/Line Network and Access (Operations)

- (iv) Within the Branch Rail Operations Sub-Divisions there shall be the following sections as required:-

Station Assistants

Conductors

Shunters/Yard Persons

Authorised Officers

Signallers

Metrol

Centrol

Each section shall comprise up to 10 members as determined by the Branch Rail Operations Divisional Committee of Management from time to time.

- (v) Within the Branch Administrative, Supervisory, Technical and Professional Division there shall be the following Sub-Divisions:-

Metro Fleet Manufacture, Overhaul, Maintenance and Service

Metro Infrastructure

Metro Rail Operations

V/Line Passenger

V/Line Passenger Infrastructure

Miscellaneous (comprising members of the Division employed by a business or part of a business which does not otherwise form a Sub-Division in this sub-rule.)

- (vi) Within the Branch Infrastructure Division there shall be the following Sub-Divisions:-

EDI Downer Works
 Metro
 V/Line Passenger Infrastructure
 Miscellaneous (comprising members of the Division employed by a business or part of a business which does not otherwise form a Sub-Division in this sub-rule.)

- (vii) Within the Branch Tram and Bus Division there shall be the following Sub-Divisions:-

Brunswick
 Camberwell
 Essendon
 Glenhuntly
 Kew
 Malvern
 Preston
 Southbank
 Bendigo Trams
 Tram Hub
 Authorised Officers
 Preston Workshops
 Tram Infrastructure
 Tram Maintenance

- (viii) Any reference to a business or part of a business in this sub-rule is taken to include a reference to any successor, transmittee or assignee of the relevant business or part of a business.
- (4) The Branch Council may establish Sub-Branches within particular geographical regions with each Sub-Branch comprising some or all members of the Branch within a particular region.
- (5) Regional Sub-Branches shall be established combining members within the Branch Administrative, Supervisory, Technical and Professional Division, the Branch Infrastructure Division, the Branch Rail Operations Division and the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division employed within the following areas:-

Western/South Western Region

Ararat/Stawell
 Mildura/Ouyen
 Ballarat
 Hamilton/Portland
 Dimboola/Murtoa/Horsham
 Geelong/Gheringhap
 Warrnambool/Camperdown
 Colac

Northern Region

Bendigo/Castlemaine/Woodend
 Echuca/Korongvale/Swan Hill
 Shepparton/Seymour/Numurkah
 Benalla/Wangaratta
 Wodonga

Southern Region

Bairnsdale
 Traralgon/Morwell
 Warragul/Korumburra.

157 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH COUNCIL

- (1) The Branch Council shall comprise the Branch President, the Branch Senior Vice-President, the Branch Junior Vice-President, the Branch Secretary, the Assistant Branch Secretary, the Secretaries of each Branch Division, the Branch Divisional Assistant Secretary Tram and Bus Division, the Branch Organisers (if any), and the Branch Divisional Organisers (if any) together with the Delegates from Branch Divisions and Regional Sub-Branches determined in accordance with Sub-Rules 157(2) and 157(3).
- (2) The Branch Divisions shall be entitled to Delegates to the Branch Council determined in accordance with the following schedule:-

<u>Number of Members within Branch Division</u>	<u>Number of Delegates</u>
For the first 375 or part thereof	1 Delegate
For 376 to 625	2 Delegates
For 626 to 875	3 Delegates
For 876 to 1,125	4 Delegates
For 1,126 to 1,375	5 Delegates
For 1,376 to 1,625	6 Delegates

The number of Delegates shall be determined on the basis of the number of financial members within the Branch Division at the end of the quarter immediately preceding the date for the opening of nominations for the election of Delegates.

The Delegate entitlement of the Branch Tram and Bus Division and the Branch Locomotive Division shall be filled by the elected Office Bearers of the Branch Divisional Committees in accordance with the following order of seniority:-

Branch Divisional President
 Branch Divisional Vice-President
 Sub-Divisional Representatives on the Branch Divisional Committee ranked in accordance with the number of financial members within the Sub-Division.

provided that, should one of the Office Bearers otherwise entitled to be a Delegate to the Branch Council in accordance with the foregoing, already be a member of the Branch Council by reason of the fact that he/she holds another Office having membership of the Branch Council, then his/her entitlement to be a Delegate shall pass to the next highest ranking Office Bearer.

The delegate entitlement of the members within the Metropolitan Areas of the Branch Administrative, Supervisory, Technical and Professional Division, the Branch Infrastructure Division, the Branch Rail Operations Division and the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division shall be directly elected according to the provisions of rule 71.

- (3) The delegate entitlement of the Regional Sub-Branches shall be the Sub-Branch President and Sub-Branch Secretary.
- (4) The Branch Council shall meet in Ordinary Session at least once every two years at such time and place as the Branch Council, or in the absence of a decision by the Branch Council, the Branch President and the Branch Secretary jointly, shall from time to time determine.

158 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall comprise the Branch President, the Senior Branch Vice-President, the Junior Branch Vice-President, the Branch Secretary, the Assistant Branch Secretary, the Branch Organisers (if any), the Branch Divisional Organisers (if any), the Secretaries of each Branch Division, and the Branch Divisional Assistant Secretary Tram and Bus Division together with Delegates to the Branch Executive from the Branch Divisions.
- (2) The number of Delegates to the Branch Executive to which a Branch Division is entitled shall be determined in accordance with the following schedule:-

<u>Number of Members within the Branch Division</u>	<u>Number of Delegates</u>
For the first 1,400 or part thereof	1 Delegate
For 1,401 to 2,400	2 Delegates
For 2,401 to 3,400	3 Delegates

The number of Delegates shall be determined on the basis of the number of financial members within the relevant Branch Division and/or areas as specified in Sub-Rule 158(3) at the end of the quarter immediately preceding the date for the opening of nominations for the election of Delegates.

- (3) The Branch shall be divided as follows for the purposes of determining Branch Divisional Delegates to the Branch Executive:-

The Branch Tram and Bus Division
 The Branch Locomotive Division
 The Branch Administrative, Supervisory, Technical and Professional Division
 The Branch Infrastructure Division
 The Branch Rail Operations Division
 The Branch Fleet Manufacture, Overhaul, Maintenance and Service Division.

- (3)(a) Delegates to which the Branch Tram and Bus Division, and the Branch Administrative, Supervisory, Technical and Professional Division, the Branch Infrastructure Division, the Branch Rail Operations Division and the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division are entitled, shall be filled by the elected Office Bearers of the respective Branch Divisional Committees in accordance with the following order of seniority:-

Branch Divisional President
 Branch Divisional Vice-President
 Sub-Divisional Representatives on the Branch Divisional Committee ranked in accordance with the number of financial members within the Branch Sub-Division

provided that, should one of the Office Bearers otherwise entitled to be a Delegate to the Branch Executive in accordance with the foregoing, already be a member of the Branch Executive by reason of the fact that he/she holds another office having membership of the Branch Executive, then his/her entitlement to be a Delegate shall pass to the next highest ranking Office Bearer.

- (3)(b) Delegates to which the Branch Locomotive Division are entitled shall be filled by the elected Office Bearers of the Branch Divisional Committee in accordance with the following order of seniority:-

Branch Divisional President
 Branch Divisional Vice-President
 Branch Divisional Assistant Secretary
 Sub- Divisional Representatives on the Branch Divisional Committee ranked in accordance with the number of financial members within the Branch Sub-Division

Provided that should one of the Office Bearers otherwise entitled to be a Delegate to the Branch Executive in accordance with the foregoing, already be a member of the Branch Executive by reason of the fact that he/she holds another office having membership of the Branch Executive, then his/her entitlement to be a Delegate shall pass to the next highest ranking Office Bearer.

- (4) The Branch Executive shall meet in Ordinary Session once a month at such time and place as the Branch Executive or, in the absence of a decision by the Branch Executive, the Branch President and the Branch Secretary jointly, may determine.

159 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH DIVISIONAL COMMITTEES

- (1) Each Branch Division shall have a Divisional Committee.
- (2) A Branch Divisional Committee shall comprise the Branch Divisional President, the Branch Divisional Vice-President, the Branch Divisional Secretary and the Branch Divisional Organiser (if any) together with representatives of the Sub-Divisions within the Branch Divisions. Except in the case of the Branch Tram and Bus Division and the Branch Locomotive Division, the representation to which a Sub-Division is entitled shall be as determined by the Branch Divisional Committee pursuant to Rule 59. No Branch Divisional Committee shall exceed twenty-one (21) members.
- (3) The Branch Divisional Committee for the Tram and Bus Division shall, in addition to the Branch Divisional President, the Branch Divisional Vice-President, the Branch Divisional Secretary, the Branch Divisional Assistant Secretary, and the Branch Divisional Organiser (if any) comprise one representative from each of the following Sub-Divisions:-
- Brunswick Sub-Division
 - Camberwell Sub-Division
 - Essendon Sub-Division
 - Glenhuntly Sub-Division
 - Kew Sub-Division
 - Malvern Sub-Division
 - Preston Sub-Division
 - Southbank Sub-Division
 - Bendigo Trams
 - Tram Hub
 - Preston Workshops Sub-Division
 - Tram Infrastructure
 - Tram Maintenance
 - Authorised Officers
- (4) The Branch Divisional Committee for the Locomotive Division shall, in addition to the Branch Divisional President, the Branch Divisional Vice-President, the Branch Divisional Secretary, the Branch Divisional Assistant Secretary and the Branch Divisional Organiser (if any) comprise Sub-Divisional Representatives determined in accordance with this Sub-Clause 159(4).

Each Region within the Branch Division as specified hereunder shall be entitled to a Representative or Representatives on the Branch Divisional Committee. The number of Representatives shall be determined in accordance with the following schedule:-

Metropolitan	(4 representatives)
Pacific National Victorian General Freight, Bulk Rail and Grain (incorporating Qube Logistics, Aurizon and SCT)	(1 representative)
V/Line Passenger	(2 representative)
Pacific National Intermodal	(1 representative)

159 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH DIVISIONAL COMMITTEES

- (5) The Branch Divisional Committee for the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division shall, in addition to the Branch Divisional President, the Branch Divisional Vice-President and the Branch Divisional Secretary include the following Sub Divisional representatives:-
- | | |
|----------------------------|---------------------|
| EDI - Workshops | (2 Representatives) |
| Metro | (3 Representatives) |
| Miscellaneous Sub-Division | (1 Representative) |
- (6) The Branch Divisional Committee for the Branch Rail Operations Division shall, in addition to the Branch Divisional President, the Branch Divisional Vice President and the Branch Divisional Secretary include the following Sub Divisional representatives:
- | | |
|--|---------------------|
| Pacific National | (1 Representative) |
| V/Line Passenger | (2 Representatives) |
| V/Line Network and Access (Operations) | (1 Representative) |
| Metro | (5 Representatives) |
- (7) The Branch Divisional Committee for the Branch Infrastructure Division shall, in addition to the Branch Divisional President, the Branch Divisional Vice President and the Branch Divisional Secretary include the following Sub Divisional representatives:
- | | |
|---------------------------------|---------------------|
| EDI Downer Works | (1 Representative) |
| Metro | (6 Representatives) |
| V/Line Passenger Infrastructure | (2 Representatives) |
| Miscellaneous | (1 Representative) |
- (8) The Branch Divisional Committee for the Branch Administrative, Supervisory, Technical and Professional Division shall, in addition to the Branch Divisional President, the Branch Divisional Vice-President and the Branch Divisional Secretary include the following Sub Divisional representatives:-
- | | |
|---|---------------------|
| V/Line Passenger Sub-Division | (1 Representatives) |
| Metro Fleet Manufacture, Overhaul, Maintenance & Service Sub-Division | (1 Representative) |
| Metro Infrastructure Sub-Division | (1 Representative) |
| Metro Rail Operations Sub-Division | (4 Representatives) |
| V/Line Passenger Infrastructure Sub-Division | (1 Representative) |
| Miscellaneous Sub-Division | (1 Representative) |
- (9) Subject to any restrictions imposed by the Branch Council or the Branch Executive, a Branch Divisional Committee may meet in Ordinary Session with such frequency and at such times and places as the Committee or, in the absence of a decision by the Committee, as the Branch Divisional President and the Branch Divisional Secretary jointly, may determine.
- (10) Any reference to a business or part of a business in this rule is taken to include a reference to any successor, transmittee or assignee of the relevant business or part of a business.

160 - REGIONAL COMMITTEES

Regional Sub Branch Committees shall be established in relation to the Regions specified in Sub-Rule 156(5). Such Committees shall have management of the affairs of the Branch Administrative, Supervisory, Technical and Professional Division, the Branch Infrastructure Division, the Branch Rail Operations Division and the Branch Fleet Manufacture, Overhaul, Maintenance and Service Divisions within a Region and shall each comprise a Sub Branch President, Senior Sub-Branch Vice-President, Junior Sub-Branch Vice-President, a Sub-Branch Secretary and four Sub Branch Representatives. Regional Sub Branch Committee shall meet in Ordinary Session at least once a year at such times and places as the Committee may determine.

161 - BRANCH OFFICES

- (1) The Branch Offices are:-

Branch President
 Senior Branch Vice-President
 Junior Branch Vice-President
 Branch Secretary
 Assistant Branch Secretary
 Branch Organisers (if any)
 Branch Divisional Organisers (if any)
 Branch Divisional Organiser (Administrative, Supervisory, Technical and Professional Division/Rail Operations Division)
 Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions)
 Branch Divisional Presidents
 Branch Divisional Vice-Presidents
 Branch Divisional Secretaries
 Branch Divisional Assistant Secretary - Tram and Bus
 Branch Divisional Assistant Secretary - Locomotive
 Branch Divisional Delegates to the Branch Council
 Sub-Branch Delegates to the Branch Council
 Branch Divisional Delegates to the Branch Executive
 Sub-Divisional Representatives on a Branch Divisional Committee
 Sub-Branch Presidents
 Senior Sub-Branch Vice-Presidents
 Junior Sub-Branch Vice-Presidents
 Sub-Branch Secretaries

- (2) The office of Branch Secretary, Branch Divisional Secretary, (except for Branch Divisional Secretary, Branch Infrastructure Division; Branch Divisional Secretary, Branch Administrative, Supervisory, Technical and Professional Division; Branch Divisional Secretary, Branch Fleet Manufacture Division) Branch Divisional Assistant Secretary Tram & Bus, Branch Divisional Assistant Secretary – Locomotive, Branch Organiser (if any) and Branch Divisional Organiser (if any) shall be paid positions.

162 - SPECIAL PROVISIONS RELATING TO BRANCH OFFICES AND OFFICE BEARERS

(2A) The office of Assistant Branch Secretary shall be a paid position until one of the following occurs:

- (i) the expiry of the current term of office of the person who holds the office on 1 February, 2000 (“the incumbent”); or
- (ii) the incumbent dies, resigns or is deemed to have resigned by operation of these Rules;

and thereupon the Office shall be an honorary office.

(3) Prior to a quadrennial election being held pursuant to these rules Branch Council shall determine the number of Branch Organisers (if any) and the number of Branch Divisional Organisers (if any) for which nominations are to be called.

(4) Subject to Sub-Rule(3) above the Branch Offices, other than those specified in Sub-Rule 161(2) shall be honorary positions.

The Office of the Branch Divisional Assistant Secretary - Locomotive may be a full time or part-time paid position.

(5) For the purposes of Sub-Rule 161(1), Sub-Branch President, Sub-Branch Vice-President, and Sub-Branch Secretary means such Sub-Branch Offices within Sub-Branches referred to in Sub-Rule 156(5).

162 - SPECIAL PROVISIONS RELATING TO BRANCH OFFICES AND OFFICE BEARERS

(1) The Senior Branch Vice-President and the Junior Branch Vice-President shall be elected by a secret ballot of all the financial members of the Branch.

(2) The Branch Divisional Presidents, the Branch Divisional Vice-Presidents and the Branch Divisional Secretaries, Branch Divisional Assistant Secretary Tram and Bus and the Branch Divisional Assistant Secretary - Locomotive shall be elected by a secret ballot of all the financial members of the respective Branch Division(s).

(3) In addition to meeting the requirements of Sub-Rules 47(5) or 47(6), a candidate for the Offices of Branch Divisional President or Branch Divisional Vice-President Branch Divisional Secretary or Branch Divisional Assistant Secretary Tram and Bus and Branch Divisional Assistant Secretary - Locomotive must, on the date on which nominations open, be a member of the Branch Division in which they seek election. Further, a candidate for an Office of Branch Divisional Secretary and Branch Divisional Assistant Secretary Tram and Bus and Branch Divisional Assistant Secretary - Locomotive must, unless he/she is a candidate seeking re-election, have been employed for a period of not less than twelve months immediately prior to the date on which nominations open, in a work function represented by the Branch Division in which they seek election.

(4) Regional Representatives to the Branch Divisional Committee of the Branch Locomotive Division shall be elected by a secret ballot of all the financial members within the region that the Officer is to represent.

- (5) Sub-Branch Presidents, Sub-Branch Vice-Presidents, Sub-Branch Secretaries and the four Sub-Branch Representatives within the Sub-Branches specified in Sub-Rule 156(5) shall be elected by a secret ballot of all the financial members within the Sub-Branch.
- (6) The Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions) shall be elected by all members who are entitled to vote in Branch elections and who are also members of either the Branch Infrastructure Division or the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division.
- (6A) The Branch Divisional Organiser (Administrative, Supervisory, Technical and Professional Division/Rail Operations Division) shall be elected by all members who are entitled to vote in Branch elections and who are also members of either the Branch Administrative, Supervisory, Technical and Professional Division or the Branch Rail Operations Division.
- (7) The Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions) shall service the industrial interests of Branch members in the Branch Infrastructure Division and the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division.

The Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions) shall be under the direction of both the Branch Divisional Secretary - Infrastructure Division and the Branch Divisional Secretary - Fleet Manufacture, Overhaul, Maintenance and Service Division, and, in addition to any duties specified elsewhere in these Rules, shall discharge all duties assigned to him/her by both those Branch Divisional Secretaries or the respective Branch Divisional Committees. In the event of a disagreement about what duties the Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions) should perform, the Branch Secretary shall resolve the disagreement as he or she sees fit.

- (7A) The Branch Divisional Organiser (Administrative, Supervisory, Technical and Professional Division/Rail Operations Division) shall service the industrial interests of Branch members in the Branch Administrative, Supervisory, Technical and Professional Division and the Branch Rail Operations Division. The Branch Divisional Organiser (Administrative, Supervisory, Technical and Professional Division/Rail Operations Division) shall be under the direction of both the Branch Divisional Secretary - Administrative, Supervisory, Technical and Professional Division and the Branch Divisional Secretary - Rail Operations Division, and in addition to any duties specified elsewhere in these Rules, shall discharge all duties assigned to him/her by both those Branch Divisional Secretaries or the respective Branch Divisional Committees. In the event of a disagreement about what duties the Branch Divisional Organiser (Administrative, Supervisory, Technical and Professional Division/Rail Operations Division) should perform, the Branch Secretary shall resolve the disagreement as he or she sees fit.

167 - CO-OPERATION BETWEEN BRANCH SUB-DIVISIONS

- (8) In addition to meeting the requirements of Sub-Rules 47(5) or 47(6), a candidate for the office of Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions) must, on the date on which nominations open, be a member of either the Branch Infrastructure Division or the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division, and must, unless he/she is a candidate seeking re-election, have been employed for a period of not less than twelve months immediately prior to the date on which nominations open, in a work function represented by either of those Branch Divisions.
- (8A) In addition to meeting the requirements of Sub-Rules 47(5) or 47(6), a candidate for the office of Branch Divisional Organiser (Administrative, Supervisory, Technical and Professional Division/Rail Operations Division) must, on the date on which nominations open, be a member of either the Branch Administrative, Supervisory, Technical and Professional Division or the Rail Operations Division, and must, unless he/she is a candidate seeking re-election, have been employed for a period of not less than twelve months immediately prior to the date on which nominations open, in a work function represented by either of those Branch Divisions.

165 - DUAL BRANCH OFFICES

Except as provided in Sub-Rule 35(2), more than one of the Branch Offices specified in Rule 161 may be held simultaneously.

166 - SUB-BRANCH COMMITTEES

A Sub-Branch Committee within the Victorian Branch may have up to ten (10) committee members.

167 - CO-OPERATION BETWEEN BRANCH SUB-DIVISIONS

By agreement between the relevant Branch Divisional Committees, two or more Branch Sub-Divisions within a particular depot, shed, workplace or geographical area may operate in unison in relation to that particular area.

168 - SHOP COMMITTEES AND DELEGATES

- (1) Sub Rules 168(1), 168(2), and 168(3) apply in relation to the Branch Administrative, Supervisory, Technical and Professional Division, the Branch Infrastructure Division, the Branch Rail Operations Division and the Branch Fleet Manufacture, Overhaul, Maintenance and Service Division.
- (2) A Shop Committee of not less than three members may be appointed in the month of December in each year by the members in any workshops, depot, station, shed, shunting yard, special gang etc. where not less than fifteen members are located. The role of such Shop Committee shall be to interview local departmental officers for the purpose of securing an adjustment of members' grievances, to police all awards and determinations to see that the provisions of same are not evaded, to see that departmental regulations, decisions and instructions relating to the welfare of members are observed and to exhaust every local channel for securing redress before referring grievances to a higher body of the Union. Only matters of a local nature shall be presented to local departmental officers, all other matters shall be referred to a higher body of the Union.
- (3) In workplaces where the majority of members so decide, those members may appoint a Job Delegate and a Deputy Job Delegate in the months of February/March each year. In the event of a position of Job Delegate and or Deputy Job Delegate falling vacant the members in the workplace may, by majority decision, appoint a replacement. Members at such workplaces shall, prior to the appointment of such Delegates, make application to the appropriate Branch Divisional Committee, Sub-Branch Committee or Shop Committee.

Upon the application being approved and the Job Delegate and Deputy Job Delegate being appointed, the appointment shall be ratified by the Branch Executive on the recommendation of the Divisional Committee, the Sub-Branch Committee or the Shop Committee, as the case may be.

The duties of the Job Delegates shall be to interview local departmental officers for the purposes of securing an adjustment of members' grievances, to police all awards and determinations and see that the provisions of same are not evaded and to see that departmental regulations, decisions and instructions relating to the welfare of members are observed. Delegates shall notify the appropriate Divisional Committee or Sub-Branch Committee or Shop Committee of any matter concerning members at their work location.

- (4) This sub rule applies in relation to the Branch Locomotive Division.
 - (i) Where the number of members in any depot does not exceed twenty five (25), and the majority of members so decide, those members may appoint a Job Delegate and a Deputy Job Delegate in each election term. In the event of a position of Job Delegate and/or Deputy Job Delegate falling vacant, the members in the workplace may, by majority decision, appoint a replacement. Only matters of a local nature shall be dealt with by a Job Delegate or Deputy Job Delegate. All other matters shall be referred to a higher body of the Union.
 - (ii) An appointment under sub rule 168(4)(i) shall not take effect unless and until it is approved by the Branch Locomotive Divisional Committee.

169 - PROXIES

In addition to the provisions of Rule 67, the following provisions shall apply:-

- (i) A proxy for a Regional Sub-Branch President or a Sub-Branch Secretary to the Branch Council shall be appointed by the relevant Sub-Branch Committee.
- (ii) A proxy for a Regional Representative on a Branch Divisional Committee shall be appointed by the Branch Divisional Committee.
- (iii) A proxy for a Representative on a Sub-Branch Committee shall be appointed by the Sub-Branch Committee.
- (iv) A proxy for a Sub-Branch President, a Senior Sub-Branch Vice-President, a Junior Sub-Branch Vice-President a Sub-Branch Secretary or a Sub-Branch Committee member shall be appointed by the Sub-Branch Committee.

170 - BRANCH DELEGATES TO EXTERNAL BODIES

- (1) Branch Delegates to the Australian Council of Trade Unions Congress, the Victorian Trades Hall Council and conferences of the Australian Labor Party shall, subject to Sub-Rule 170(2) be elected by and from the Branch Council.
- (2) The Branch President, the Branch Secretary and the Assistant Branch Secretary shall be delegates to the Australian Council of Trade Unions Congress and the Victorian Trades Hall Council and, provided that they meet the eligibility requirements for attendance at Australian Labor Party Conferences, they shall be delegates to such Conferences.

171 - PRESS RELEASES AND MEDIA COMMENT

Subject to Rule 82, the Branch Secretary, the Assistant Branch Secretary and the Branch President shall be the Branch Office Bearers to issue all press releases and make all media comment in relation to matters affecting the Branch and no other Office Bearer or member shall issue such releases or make such comment on behalf of the Branch without the express authorisation of the Branch Secretary.

PART XV - WEST AUSTRALIAN BRANCH

172 - APPLICATION

This part applies specifically to the West Australian Branch of the Australian Rail, Tram and Bus Industry Union. The provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

173 - DEFINITIONS

The following specific definitions shall apply in relation to this Part:-

"Branch" means the Australian Rail, Tram and Bus Industry Union, West Australian Branch.

"West Australian PTA Branch" means the Branch comprised of the members of the union in the employ of the Public Transport Authority of Western Australia or who are employed in or in connection with the activities of the Public Transport Authority, including employed in or in connection with Security, Urban Rail, Customer Relations, Administrative Technical and Supervisory, TransWA, Delron & Goldfields Buses, and Miscellaneous Infrastructure.

"Intrastate Section" means the Section comprised of the members of the Branch in the employ of the Australian Railroad Group.

"Interstate Section" means the Section comprised of the members of the Branch in the employ of Pacific National and S.C.T. Logistics.

"Infrastructure Section" means the Section comprised of the members of the Branch in the employ of John Holland, and Westnet Rail.

"Administrative, Technical and Supervisory Section" shall consist of Administrative, Technical and Supervisory employees employed by all employers in the industries covered by the Branch.

A reference to any firm or organisation in these definitions shall be taken to include any successor in business or transferee of those firms or organisations.

174 - NAME OF BRANCH

The name of the Branch shall be:-

"Australian Rail, Tram and Bus Industry Union, West Australian Branch"

175 - BRANCH OFFICE

The Branch office shall be located at Unit 2/10 Nash Street, Perth or at such other place as is determined by the Branch Council from time to time.

176 - BRANCH MEMBERSHIP

The Branch shall comprise all members of the Union whose usual place of work is located within the boundaries of the West Australian Branch as determined from time to time by the National Council pursuant to Rule 6 but shall not include the members of the West Australian PTA Branch.

177 - BRANCH STRUCTURE AND ORGANISATION

The Branch shall be organised on the basis of three Sections, namely, the Intrastate Section, the Interstate Section and the Infrastructure Section, and within those Sections, Sub-Branches. Should the Branch Council decide, an additional Section known as the “Administrative, Technical and Supervisory Section” shall be constituted and consist of Administrative, Technical and Supervisory employees employed by all employers in the industries covered by the Branch.

178 - THE SECTIONS

- (1) The Intrastate Section, the Interstate Section and the Infrastructure Section, shall be Sections comprised of the members of the union employed in or in connection with the activities of the employers in each division.
- (2) Each Section shall have primary responsibility for the industrial affairs of the members in the Section.
- (3) Each Section shall be governed by its Sectional Executive.

179 - SUB-BRANCHES

The Section shall be organised into Sub-Branches as follows:-

- (1) The Intrastate Section shall consist of the Australian Railroad Group and shall be organised into metropolitan and regional sub-branches as determined by the Branch council.
- (2) The Interstate Section shall consist of the Pacific National and S.C.T. Logistics sub-branches and, where decided, shall be organised into metropolitan and regional sub-branches as determined by the Branch council.
- (3) The Infrastructure Section shall consist of the John Holland, and Westnet Rail sub-branches.
- (4) The Administrative, Technical and Supervisory Section (if created) shall consist of such sub-branches (if any) as the Branch Executive may decide.

179A

Each location in a Sub-Branch may appoint Workplace Delegates, the appointment of Workplace Delegates will be by the majority of members at that location and the term of appointment will be for two years or until the majority of members decide to reappoint their Workplace Delegate.

The role of the Delegate is to consult with local management on issues of a local nature, ensure industrial agreements are adhered to, ensure compliance of OSH legislation, assist in establishing log of claims for any new Industrial Agreement, assist in negotiations of a new Industrial Agreement, deal with local member grievances, encourage membership of the Union, assist Sub-Branch committees in resolving disputes and refer matters to a higher structure within the Branch should assistance be required or the matter is considered greater than a local issue.

180 - SECTIONAL EXECUTIVES

- (1) There shall be a Sectional Executive which shall advise and assist the Branch Executive and Branch Council regarding the conduct and control of industrial affairs of the members in the Section.
- (2) The Sectional Executive shall consist of representatives of the Sectional sub-branches, and the Branch Secretary, the Branch President and the Branch Vice-President (ex officio).

181 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH COUNCIL

- (1) The Branch Council shall comprise the Branch President, Branch Vice-President, Branch Secretary, and representatives of each section as determined in sub-rule (2), and one (1) affirmative action councillor, elected by the whole branch membership from the women members of the Branch.
- (2) Each section shall be entitled to at least one representative on the Branch Council and an additional representative as follows:- 300-600 members - 1 additional representative; 600-900 members - 1 additional representative; over 900 members - 1 additional representative (or their proxies). The representatives shall be referred to as Branch Councillors.
- (3) Each of the members of Branch Council shall be entitled to exercise a vote at Branch Council based on the financial membership of the Branch in accordance with the following formula:
 - (a) Each Branch Councillor shall be entitled to exercise a vote equal to 70% of the financial members of the section in the case of a single Councillor from the section, or where there is more than one councillor the total number of votes to which the section is entitled divided by the number of councillors.
 - (b) Each of the Branch President, Branch Vice President, and Branch Secretary shall be entitled to exercise a vote equal to one third of 30% of the financial members of the Branch.

184 - COMPOSITION AND ORDINARY MEETINGS OF THE SUB-BRANCH COMMITTEES

- (4) A resolution of Branch Council shall be carried where a numerical majority of Branch councillors as represented in (a) and (b) above, present and voting, vote in favour. For the purposes of the formula in sub-rule 3(a) and (b) the number of financial members of the Branch shall be determined at the end of the quarter immediately preceding the date for the opening of nominations for each biennial election.
- (5) The Branch Council shall meet in ordinary session at least annually at such time and place as the Branch Council or, in the absence of a decision by the Branch Council, the Branch President, Branch Vice President and the Branch Secretary jointly, shall determine.

182 - COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall comprise the Branch President, Branch Vice-President, and Branch Secretary.
- (2) The Branch Executive will meet on a needs basis between Branch Council meetings as determined by the Branch Council or as the Branch President and Branch Secretary jointly, may determine.

183 - COMPOSITION AND ORDINARY MEETINGS OF THE SECTIONS

- (1) Each Section shall have a Committee composed of at least one representative from each sub branch within the Section. Any additional representatives shall be determined by the Branch Executive in consultation with the Section.
- (2) A Sectional Committee shall meet at least twice a year. The Branch President and/or Secretary jointly may determine, in the absence of a decision by the Sectional Committee, to call meetings between the ordinary half yearly meetings provided that members of the sectional committee are consulted.

184 - COMPOSITION AND ORDINARY MEETINGS OF THE SUB-BRANCH COMMITTEES

- (1) Each Sub-Branch shall have a Sub-Branch Committee as provided for in Rule 57(2).
- (2) A Sub-Branch Committee shall meet at least once each quarter and at least four weeks prior to any ordinary Branch Council meeting. The Sub-Branch President and the Sub-Branch Secretary jointly may determine, in the absence of a decision by the Sub-Branch Committee, to call meetings between the ordinary quarterly meetings.

185 - OTHER SECTIONAL COMMITTEE MEETINGS

Joint Sectional Committee meetings to discuss issues of mutual interest shall be held twice a year at a time and place determined by the Branch Executive.

186 - BRANCH OFFICES

- (1) The Branch Offices are:-

Branch President
Branch Vice-President
Branch Secretary
Branch Councillors

- (2) The Offices of Branch Secretary shall be a paid position.
- (3) Other Branch Offices shall be honorary positions.

186A - DELEGATES TO NATIONAL COUNCIL FROM DIVISIONS

The Branch shall elect delegates to National Council to the National Infrastructure Division, National Rail Operations Division and the National Locomotive Division in accordance with the formula set out in rule 28(3)

PART XVI - WEST AUSTRALIAN PTA BRANCH**187 - APPLICATION**

This part applies specifically to the West Australian PTA Branch of the Australian Rail, Tram and Bus Industry Union. The provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

188 - DEFINITIONS

The following specific definitions shall apply in relation to this Part:-

"Branch" means the Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch.

"Branch Executive" shall mean the PTA Branch Executive.

"PTA Branch" means the Branch comprised of the members of the union in the employ of the Public Transport Authority of Western Australia or who are employed in or in connection with the activities of the Public Transport Authority, including employed in or in connection with Security, Urban Rail, Customer Relations, Administrative Technical and Supervisory, TransWA, Delron & Goldfields Buses, and Miscellaneous Infrastructure.

A reference to the Public Transport Authority of Western Australia in these rules shall be taken to include any successor in business or transferee of that organisation.

189 - NAME OF BRANCH

The name of the Branch shall be:-

"Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch"

190 - BRANCH OFFICE

The Branch office shall be located at Unit 2/10 Nash Street, Perth or at such other place as is determined by the PTA Branch Executive from time to time.

191 - BRANCH MEMBERSHIP

The Branch shall comprise all members of the Union in the employ of the Public Transport Authority of Western Australia or who are employed in or in connection with the activities of the Public Transport Authority, including employed in or in connection with Security, Urban Rail, Customer Relations, Administrative Technical and Supervisory, TransWA, Delron & Goldfields Buses, and Miscellaneous Infrastructure.

192 - THE PTA BRANCH

- (1) The PTA Branch shall have responsibility for the industrial affairs of the members in the Branch.
- (2) The PTA Branch shall be governed by the PTA Branch Executive.
- (3) To avoid any doubt, the PTA Branch shall be autonomous subject to the rules and the supervision of the National Executive and National Council.

193 - SUB-BRANCHES

- (1) The PTA Branch shall be organised into Sub-Branches as follows:- the Security, Urban Rail, Customer Relations, TransWA, Delron & Goldfields Buses, and such other sub-branches as the Branch Executive may determine.
- (2) The Sub-Branches shall advise and assist the Executive.
- (3) Each Sub-Branch shall have a Sub-Branch Committee in accordance with sub-rule 57(2).

194 - BRANCH EXECUTIVE

- (1) There shall be a Branch Executive which shall have responsibility for the conduct and control of the affairs of the members in the PTA Branch. The Branch Executive shall have the care, control, management and superintendence of the activities of the PTA Branch. All decisions within the powers of the Branch Executive shall have full force and effect.
- (2) The PTA Branch Executive shall consist of the Branch Secretary, the Branch President and the Branch Vice-President (to be elected by and from the members employed by the PTA) and one representative from each sub-branch within the Branch.

195 - MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive will meet at least four times in each calendar year as determined by it or as the President and the Secretary jointly, may determine and otherwise on a needs basis. As far as practicable, seven days' notice of any meeting shall be given provided that the Executive may agree to waive any notice requirement.
- (2) Between meetings of the Executive, a meeting of the Executive may be had by a postal or electronic ballot or by a meeting convened by teleconference, videoconference or similar means ("Urgent Executive Meeting"). A decision to hold an Urgent Executive Meeting is to be made by the President and the Secretary jointly. Where a decision has been made to hold an Urgent Executive Meeting, the Secretary shall dispatch an agenda paper clearly setting out the matters for decision, together with any supporting material, to each member of the Executive.

196 - deleted

197 - MEETINGS OF THE SUB-BRANCH COMMITTEES

- (1) A Sub-Branch Committee shall meet at least once each quarter. The Sub-Branch President and the Sub-Branch Secretary jointly may determine, in the absence of a decision by the Sub-Branch Committee, to call meetings between the ordinary quarterly meetings.
- (2) The Branch President and the Branch Secretary jointly may determine, in the absence of a decision by the Sub-Branch Committee, to call meetings of the Sub-Branch Committee between the ordinary quarterly meetings.

198 - BRANCH OFFICES

- (1) The Branch Offices are:-
 Branch President
 Branch Vice-President
 Branch Secretary
 Sub-Branch representatives
- (2) The Offices of Branch Secretary shall be a paid position.
- (3) Other Branch Offices shall be honorary positions.

198A - DELEGATES TO NATIONAL COUNCIL FROM DIVISIONS

The Branch shall elect delegates to National Council to the National Rail Operations Division and the National Locomotive Division in accordance with the formula set out in rule 28(3)

199 - TRANSITIONAL RULES

- (1) Notwithstanding anything else in these rules, when the rules establishing a Western Australian PTA Branch [Part XVI - West Australian PTA Branch] are adopted by the National Council, the following transitional provisions set out in this rule will apply.
- (2) NOT CERTIFIED
- (3) Persons elected to the Branch Executive of the West Australian PTA Branch shall be elected for a term commencing upon the date of declaration of the election until their successors are declared elected at the next scheduled election for offices for all positions within the RTBU nationally in accordance with Rule 47 [i.e. November 2014] provided that the PTA Branch Secretary shall, in and from the election to be conducted in September 2014, be elected for a term of office of 4 years.
- (4) West Australian PTA Branch shall commence operations as a separate and autonomous branch of the union on and from the declaration of the election of the PTA Branch Executive.

PART XVII – WESTERN AUSTRALIA BRANCH**172 - APPLICATION**

This part applies specifically to the Western Australia Branch of the Australian Rail, Tram and Bus Industry Union. Subject to Rule 186 below, as at the merger date the provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

173 - DEFINITIONS

The following specific definitions shall apply in relation to this Part:

“*Branch*” means the Australian Rail, Tram and Bus Industry Union, Western Australian Branch.

“*Freight Section*” shall consist of all members of the Branch who work entirely or predominately in or in connection with freight transport.

“*Passenger Section*” shall consist of all members of the Branch who work entirely or predominately in or in connection with passenger transport.

174 – NAME OF BRANCH

The name of the Branch shall be:

“Australian Rail, Tram and Bus Industry Union, Western Australia Branch.”

175 – BRANCH OFFICE

The Branch office shall be located at Unit 2/10 Nash Street, Perth in Western Australia or at such other place as to be determined by Branch Council from time to time.

176 – BRANCH MEMBERSHIP

The Branch shall comprise of all members of the Union whose usual place of work is located within the boundaries of the Western Australia Branch as determined for time to time by the National Council pursuant to Rule 6.

177 – BRANCH STRUCTURE AND ORGANISATION

The Branch shall be organised into two (2) Sections, namely the Freight Section and the Passenger Section, and within those Sections, Sub-Branches.

178 – SUB-BRANCHES

The Sections shall be organised into Sub-Branches as follows:

- (1) The Freight Section:
 - a. Goldfields Sub-Branch
 - b. Metro Sub-Branch
 - c. Mid-West Sub-Branch
 - d. South-West Sub-Branch
 - e. Wheatbelt Sub-Branch
 - f. Metropolitan Sub-Branch
 - g. Regional Sub-Branch
 - h. Freight Infrastructure Sub-Branch
- (2) The Passenger Section:
 - a. Customer Relations Sub-Branch
 - b. Urban Rail Sub-Branch
 - c. Security Sub-Branch
 - d. State Network and Infrastructure Sub-Branch
 - e. Federal Network and Infrastructure Sub-Branch
 - f. Miscellaneous Sub-Branch
 - g. Trans WA Sub-Branch
- (3) Each member shall be allocated to that Sub-Branch which most closely accords with his/her work functions. The principles of allocation shall be determined by the Branch Council and the allocation shall be undertaken by the Branch Secretary in accordance therewith.
- (4) The Branch Council or the Branch Executive shall have the power to establish new Sub-Branches on a geographic, regional or employer basis.

- (5) The Branch Council or the Branch Executive shall have the power to dissolve any Sub-Branch where:
 - a. There are insufficient Sub-Branch Committee Members to achieve a quorum; or
 - b. The Sub-Branch has resolved that it should be dissolved.

179 – WORKPLACE DELEGATES

- (1) Each location in a Sub-Branch may appoint Workplace Delegates. The appointment of Workplace Delegates shall be by the majority of members at that location and the term of appointment will be for two (2) years or until the majority of members decide to reappoint their Workplace Delegate
- (2) The role of the Workplace Delegate is to consult with local management on issues of a local nature, ensure awards and industrial and enterprise agreements are adhered to, ensure compliance of OHS legislation, assist in establishing logs of claims for any new industrial or enterprise agreement, deal with local member grievances, encourage membership of the Union, assist Sub-Branch Committees in resolving disputes and refer matters to a higher structure within the Branch should assistance be required or the matter is considered greater than a local issue.

180 – COMPOSITION AND ORDINARY MEETINGS OF BRANCH COUNCIL

- (1) The Branch Council shall consist of the Branch President, Branch Vice-President (Freight) who shall be elected by the financial members of the Freight Section, Branch Vice-President (Passenger) who shall be elected by the financial members of the Passenger Section, Branch Secretary, the Sub-Branch Secretaries and one (1) Affirmative Action Councillor who shall be elected by the financial women members of the Branch.
- (2) Each of the members of Branch Council shall be entitled to exercise one vote at Branch Council.
- (3) A resolution of Branch Council shall be carried where a numerical majority of Branch Councillors present and voting, vote in favour.
- (4) The Branch Council shall meet in ordinary session every two years at such time and place as the Branch Council or, in the absence of a decision by the Branch Council, the Branch President, the Branch Vice Presidents and the Branch Secretary jointly, shall determine.
- (5) In addition to the ordinary meetings of Branch Council, a meeting of the Branch Council shall be convened by the Branch Secretary upon:
 - a. The resolution of at least 75% of the Sub-Branches in both Sections; or
 - b. The resolution of all Sub-Branches in either of the Sections.

181 – COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall comprise the Branch President, the Branch Vice-Presidents, the Branch Secretary and the Affirmative Action Councillor.
- (2) The Branch Executive shall meet in ordinary session twice per year as determined by the Branch Secretary and Branch President jointly or as determined by Branch Council.
- (3) A Special Meeting of the Branch Executive may be convened by the Branch Secretary and the Branch President jointly or by direction of the Branch Council.

182 – COMPOSITION AND ORDINARY MEETINGS OF THE SUB-BRANCH COMMITTEES

Each Sub-Branch shall have a Sub-Branch Committee as provided for in Rule 57(2).

183 – BRANCH OFFICES

- (1) The Branch Offices are:-
 - Branch President
 - Branch Vice-President (Freight)
 - Branch Vice-President (Passenger)
 - Branch Secretary
 - Sub-Branch Secretaries
 - Affirmative Action Councillor
- (2) The Office of Branch Secretary shall be a paid position.
- (3) All other Branch Offices shall be honorary positions.

184 – DELEGATES TO NATIONAL COUNCIL FROM DIVISIONS

The Branch shall elect delegates to National Council from the National Divisions in accordance with the formula set out in rule 28(3).

185 – REFERRAL OF MATTERS TO NATIONAL COUNCIL

Any matter arising within the Branch, may be referred to the National Council for determination or resolution upon:

- a. The resolution of at least 75% of the Sub-Branches in both Sections; or
- b. The resolution of all Sub-Branches in either of the Sections.

186 – TRANSITIONAL RULEIntroduction

- (1) The provisions of this Rule shall apply notwithstanding anything elsewhere contained in these Rules.
- (2) This Rule is intended to enable the merger of the West Australian Branch and the West Australian PTA Branch to form the Western Australia Branch.
- (3) For the purposes of this Rule:
 - (a) “merger date” shall mean 1 January 2023.
 - (b) “merged Branch” shall mean the Western Australia Branch.

Membership

- (4) On the merger date, the West Australian Branch and the West Australian PTA Branch will merge to form the merged Branch.
- (5) On the merger date, all members of the West Australian Branch and the West Australian PTA Branch on the day prior to the merger date shall become members of the merged Branch and shall maintain continuity of membership, retaining voting rights in accordance with these Rules and any privileges will be preserved.
- (6) On the merger date, any period of membership and/or financial membership of the Union in the West Australian Branch or the West Australian PTA Branch in accordance with the Union’s Rules prior to the merger date shall be deemed to be for all purposes membership and/or financial membership of the Union in the merged Branch. Any period of unfinancial membership in the West Australian Branch or the West Australian PTA Branch in accordance with the Union’s Rules prior to the merger date shall be deemed to be for all purposes a period of unfinancial membership in the merged Branch.

Abolition of Offices

- (7) On the merger date, all offices in the West Australian Branch and the West Australian PTA Branch are abolished.

Branch Property

- (8) On the merger date, the assets, funds and property of, and the debts and liabilities incurred by the West Australian Branch and the West Australian PTA Branch shall be the assets, funds and property of, and the debts and liabilities of the merged Branch.
- (9) From the merger date, the persons who held office in the West Australian Branch and the West Australian PTA Branch prior to the merger date shall take all and every action and execute such documents as may be necessary for, or helpful in, effecting the transfer of the assets, funds and property and debts and liabilities of the West Australian Branch and the West Australian PTA Branch to the merged Branch.

Inaugural Elections for the merged Branch

- (10) For the purposes of the inaugural elections for offices in the merged Branch to be conducted in 2022, the following provisions shall apply.
- (11) The electorate for the offices of Branch Secretary and Branch President shall be all financial members of the West Australian Branch and the West Australian PTA Branch.
- (12) The electorate for the office of Branch Vice-President (Freight) shall be all financial members of the West Australian Branch.
- (13) The electorate for the office of Branch Vice-President (Passenger) shall be all financial members of the West Australian PTA Branch.
- (14) The electorate for the office of Affirmative Action Councillor shall be all financial women members of the West Australian Branch and the West Australian PTA Branch.
- (15) The electorates for the office holders in the Sub-Branches shall be as set out in the tables below.

Freight Section

Sub-Branch	Electorate
Goldfields Sub-Branch	All financial members of the Goldfields Sub-Branch Intrastate Section of the West Australian Branch
Metro Sub-Branch	All financial members of the Metro Sub-Branch Intrastate Section of the West Australian Branch
Mid-West Sub-Branch	All financial members of the Mid-West Sub-Branch Intrastate Section of the West Australian Branch
South-West Sub-Branch	All financial members of the South-West Sub-Branch Intrastate Section of the West Australian Branch
Wheatbelt Sub-Branch	All financial members of the Wheatbelt Sub-Branch Intrastate Section of the West Australian Branch
Metropolitan Sub-Branch	All financial members of the Metropolitan Sub-Branch Interstate Section of the West Australian Branch

186 – TRANSITIONAL RULE

Regional Sub-Branch	All financial members of the Regional Sub-Branch Interstate Section of the West Australian Branch
Freight Infrastructure Sub-Branch	All financial members of the Infrastructure Section of the West Australian Branch

Passenger Section

<u>Sub-Branch</u>	<u>Electorate</u>
<u>Customer Relations Sub-Branch</u>	<u>All financial members of the Customer Relations Sub-Branch of the West Australian PTA Branch</u>
<u>Urban Rail Sub-Branch</u>	<u>All financial members of the Urban Rail Sub-Branch of the West Australian PTA Branch</u>
<u>Security Sub-Branch</u>	<u>All financial members of the Security Sub-Branch of the West Australian PTA Branch</u>
<u>State Network and Infrastructure Sub-Branch</u>	<u>All financial members of the Network and Infrastructure Sub-Branch of the West Australian PTA Branch employed by a State public sector employer</u>
<u>Federal Network and Infrastructure Sub-Branch</u>	<u>All financial members of the Network and Infrastructure Sub-Branch of the West Australian PTA Branch employed by a national system employer</u>
<u>Miscellaneous Sub-Branch</u>	<u>All financial members of the West Australian PTA Branch not otherwise allocated to a Sub-Branch</u>
<u>Trans WA Sub-Branch</u>	<u>All financial members of the Trans WA Sub-Branch of the West Australian PTA Branch</u>

- (16) All successful candidates elected at the inaugural elections for the merged Branch shall take office on and from 1 January 2023.

*** END OF RULES ***

THESE RULES HAVE BEEN CONSOLIDATED UP TO AND INCLUDING APPLICATION FBM 5 OF 2016
DATED 29 MARCH 2017

S. HUTCHINSON
DEPUTY REGISTRAR

**THE AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION
OF EMPLOYEES, WEST AUSTRALIAN BRANCH**

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PART I – NAME, MEMBERSHIP AND OBJECTS

1. *Name of Union*

The Union shall be called “The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch”.

2. *Registered Office*

The registered office of the union shall be at, 2/10 Nash Street, Perth or at such other place as the Executive may from time to time determine.

3. *Eligibility for Membership*

- 3.1. Any person employed in the Public Transport Authority of Western Australia who is an employee within the meaning of the IRA may be admitted as a member.
- 3.2. No person shall be a member of the Union except in the capacity of an Honorary Member, who is not an employee within the meaning of the IRA.
- 3.3. Notwithstanding the above provision, a person who is admitted to membership of the Union pursuant to these provisions and who subsequently is elected as an Office Bearer of the Union or becomes an employee of the Union, shall be entitled to remain as a member while holding such office or engaged in such employment.

4. *Objects*

The objects of the Union are:

- 4.1 To uphold the rights of combination of labour, to maximise the amount of labour employed within the rail, tram and bus industry and to improve, protect and foster the best interests of its members;
- 4.2 To take all necessary steps and actions under any relevant legislation or otherwise, for the purpose of securing satisfactory industrial and working conditions without discrimination, in respect of the

remuneration of labour, the hours of labour and other conditions in or in relation to employment in the rail, tram and bus industry;

- 4.3 To provide for the protection and safety of its members and members of the public in the course of or in connection with its members' employment;
- 4.4 To obtain preferential treatment for its members in all aspects of their employment;
- 4.5 To improve the social and economic position of its members;
- 4.6 To assist members and their families in distress;
- 4.7 To formulate and carry into operation schemes for the industrial, social recreational, intellectual and general advancement of members and to make arrangements with persons engaged in any trade, business or profession for the provision to members of any special benefits, privileges and advantages and in particular in relation to goods and services;
- 4.8 To establish and maintain social clubs and other recreational facilities and amenities for the benefit of members and their families;
- 4.9 To establish, operate and maintain health services;
- 4.10 To establish sickness and/or accident funds, mortality benefit and/or retirement gratuity funds and any other appropriate funds for the benefit of members, Office Bearers and employees of the Union;
- 4.11 To establish Branches, or other organisational structures of the Union and consultative committees in relation to each organisational level of the Union;
- 4.12 To assist members by all reasonable and proper means, to address any and all grievances which the members may have, and without limiting the generality of the foregoing:

- 4.12.1 To assist members in enforcing their rights under any law relating to industrial conciliation or arbitration or compensation for illness or injuries or any other statutory enactment;
- 4.12.2 To provide financial, legal and other assistance for securing, protecting and advancing the rights, privileges, benefits, interest and welfare of members and their families and for the conduct of negotiations or any proceedings for the attainment of this object;
- 4.13 To establish and maintain:
 - 4.13.1 Official journals, other journals, newspapers or other publications;
 - 4.13.2 Radio, television, other electronic broadcasting facilities or internet publishing channels; and

to assist in the establishment, operation and maintenance of any such publications, facilities or channels owned by bona fide trade unions or labour organisations or conducted in the interests thereof, including but not limited to the purchase of shares in any corporation carrying on such activity;
- 4.14 To provide information on industrial, economic, social, legal and political matters affecting members;
- 4.15 To organise and assist in the training and education of members and without limiting the generality of the foregoing, to assist any movement or institution for the training of members in the skills and duties of their occupation or their rights and duties as members;
- 4.16 To encourage, develop and maintain fraternal relations with and to assist kindred organisations and their members and dependants, either in or out of Australia;
- 4.17 To encourage and support the organisation of industrial unionism by the establishment of one union for all grades and classifications of railway, tram and bus industry employees and the linking up, by amalgamation with unions in other sections of the transport industry or in other industries;

- 4.18 To co-operate, affiliate, federate, amalgamate, merge with or absorb any association, organisation or union of employees whether registered or not pursuant to any industrial law of the Commonwealth of Australia or of any State or Territory of Australia;
- 4.19 To assist in the movement for the application of the principles of democracy to industry, and without limiting the generality of the foregoing, to assist, support and encourage direct representation in the Federal Parliament of Australia and the various State and Territory Parliaments and municipal and shire councils with the view to promoting such legislative reforms as will ensure social justice to workers;
- 4.20 To affiliate with and assist financially or otherwise, any bona fide labour or trade union organisation or association or representative body or council which promotes or protects the cause of labour;
- 4.21 To establish, maintain and assist any body, corporation or association concerned with research into industrial, economic, social, legal and political matters affecting members and the trade union movement;
- 4.22 To resist the introduction or the continuation of pernicious systems of employment;
- 4.23 To raise funds by contributions, levies, donations, fees, interest on capital, and otherwise for any of the objects of the Union;
- 4.24 To invest funds;
- 4.25 To own, purchase, take on lease or in exchange, lease, dispose of, turn to account or otherwise deal with any property;
- 4.26 To sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with any property including all or any part of the property and rights of the Union;
- 4.27 To borrow or raise funds or secure the repayment of funds;

- 4.28 To undertake and do all such acts, matters and things as may be necessary, incidental or conducive to the attainment of the above objects or any of them.

5. Definitions

- 5.1 In these Rules the following words and phrases shall have the following meanings:

“Annual General Meeting” is a meeting of members convened pursuant to rule 44.1 of the Rules.

“Associate Member” has the meaning given in rule 11.4 of the Rules.

“The Australian Rail, Tram and Bus Industry Union” [“RTBU”] is an organisation registered under the FW(RO)A.

“award” has the same meaning as in the IRA;

“Branch” means a body of the Union established under rule 7.1 of the Rules.

“Branch Committee” means the persons who hold a position in a Branch as specified in rule 7.3 of the Rules;

“Electoral Commissioner” has the same meaning as in the *Electoral Act 1907 (WA)*;

“enterprise order” has the same meaning as in the IRA;

“Executive” means the body of the Union established under rule 6.1 of the Rules.

“FW(RO)A” means the *Fair Work (Registered Organisations) Act 2009 (Cwth)*.

“FWA” means the *Fair Work Act 2009 (Cwth)*.

“Honorary Member” means a person who has been awarded membership of the Union in accordance with rule 13.3 of the Rules.

“IRA” means the *Industrial Relations Act 1979 (WA)*.

“member” means a persons who has been admitted to membership of the Union.

“Office” means the positions in the Union specified in rule 8.1 of the Rules.

“Office Bearer” means a person holding an Office within the Union.

“Organisation” means an association of employees registered under Part II Division 4 of the IRA or an association of employees registered under the FW(RO)A.

“Public Transport Authority of Western Australia” means the statutory body corporate with perpetual succession created by section 5 of the *Public Transport Authority Act 2003 (WA)*.

“PTA Branch” means the Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch as constituted by Part XVI of the rules of the RTBU.

“Register of Members” means the list of members created under rule 20.1 of the Rules.

“Register of Office Bearers” means the list of Office Bearers created under rule 20.2 of the Rules.

“Registrar” has the same meaning as in the IRA.

“registered office” means the principal place of business of the Union as specified in rule **Error! Reference source not found.** of the Rules.

“Rules” means the rules of the Union as registered from time to time with the WAIRC.

“Special General Meeting” is a meeting of members convened pursuant to rule 44.2 of the Rules.

“Union” means the organisation registered under Part II Division 4 of the IRA and having the WAIRC registered number 265.

“Union Fund” means the pool of assets specified in rule 23.2 of the Rules.

“WAIRC” means the body continued and constituted under Part II Division 1 of the IRA under the name *The Western Australian Industrial Relations Commission*.

- 5.2 Throughout the text of these Rules where certain words or phrases appear and next to such words or phrases there is written in brackets and surrounded by quotation marks an abbreviation or acronym of the immediately preceding words or phrases then whenever that abbreviation or acronym appears elsewhere in the text of these Rules it is to be read as the words or phrases for which the abbreviation or acronym stands.

PART II – STRUCTURE AND GOVERNMENT OF THE UNION

6. *The Executive*

- 6.1 The Union shall be governed by the Executive which shall have the responsibility for the affairs of the Union including but not limited to the industrial affairs of the members of the Union.
- 6.2 The Executive shall consist of:
- 6.2.1 The President;
 - 6.2.2 The Vice-President;
 - 6.2.3 The Secretary; and
 - 6.2.4 Sub rule deleted (Application 56/2013, 13 December 2013)
 - 6.2.5 One representative from each Branch.
- 6.3 The Executive will meet at least four times in each calendar year as determined by it or as the President, and the Secretary jointly may determine and otherwise on an as needs basis.
- 6.4 The Secretary shall forward a notice of meeting of the Executive to each Executive member together with an agenda no less than 7 days prior to

the date of the meeting provided that all of members of the Executive may agree to waive this notice of meeting requirement.

- 6.5 A quorum for a meeting of the Executive shall be a majority of the members of the Executive entitled to attend the meeting.
- 6.6 The Executive shall have the care, control, management and superintendence of the activities of the Union. All decisions within the powers of the Executive shall have full force and effect.
- 6.7 Between meetings of the Executive, a meeting of the Executive may be had by a meeting convened by teleconference, video conference, internet audio and/or visual communication or similar means (“Supplementary Executive Meeting”).
 - 6.7.1 A decision to hold a Supplementary Executive Meeting is to be made by the President and the Secretary jointly.
 - 6.7.2 Where a decision has been made to hold an Supplementary Executive Meeting, the Secretary shall dispatch an agenda paper clearly setting out the matters for decision, together with any supporting material, to each member of the Executive.

7. Branches

- 7.1. There shall be such Branches of the Union as determined by the Executive.
- 7.2. The Branches shall advise and assist the Executive.
- 7.3. Each Branch shall have a Branch Committee which shall consist of:
 - 7.3.1 A Branch President; and
 - 7.3.2 A Branch Secretary and such other members of the Branch Committee as the Executive may determine.
- 7.4. A Branch Committee meeting shall be held at least once each quarter and at least four weeks prior to an Executive meeting.

- 7.5. The Branch Secretary shall forward a notice of meeting of the Branch Committee to each member of the Branch Committee together with an agenda no less than 7 days prior to the date of the meeting provided that all of members of the Branch Committee may agree to waive this notice of meeting requirement.
- 7.6. A quorum for a meeting of a Branch Committee shall be at least 4 people entitled to attend the meeting two of whom must be the Branch President and the Branch Secretary.
- 7.7. The Branch President and the Branch Secretary jointly may determine, in the absence of a decision by the Branch Committee, to call meetings of the Branch Committee between the ordinary quarterly meetings.

8. *Union Offices*

- 8.1 The Offices are:
 - 8.1.1 The President;
 - 8.1.2 The Vice-President;
 - 8.1.3 The Secretary; and
 - 8.1.4 Sub rule deleted (Application 56/2013, 13 December 2013)
 - 8.1.5 All other Executive members.
- 8.2 The Office of Secretary shall be a paid position.
- 8.3 Other Offices shall be honorary positions.

PART III – MEMBERSHIP

9. *Admission to Membership*

- 9.1 All persons eligible for membership of the Union under rule 3 of the Rules shall be entitled to seek membership of the Union by making application to the Secretary in accordance with the form prescribed by the Secretary (“Application Form”).
- 9.2 Any person wanting to make application to become a member of the Union shall be provided with an Application Form upon request.

- 9.3 An application for membership of the Union shall be accompanied by such entrance fee, if any, as the Executive shall from time to time determine.
- 9.4 A person's membership of the Union commences on and from the date that person's duly completed Application Form is received by the Secretary.
- 9.5 If the Secretary considers that a person who applies for membership of the Union is either ineligible or is of general bad character, the Secretary shall refer the application for consideration by the Executive. The Executive shall decide whether to accept or reject that person's application for membership of the Union and in the event of acceptance, that person shall be deemed to be a member from the date that the person's application was received by the Secretary.
- 9.6 The Secretary shall inform persons who want to become members of the Union, in writing, of the financial obligations arising from membership and of the circumstances and the manner in which a member may resign from the Union.
- 9.7 No error, omission or want of form in connection with a person's application for membership shall in itself invalidate membership.

10. *Subscriptions, Fees, Levies*

- 10.1 A member shall pay such subscriptions, fees, and levies as are determined from time to time by the Executive. All monies due by a member shall be paid to the Secretary.
- 10.2 The method of payment of subscriptions fees, and levies shall be determined from time to time by the Executive.
- 10.3 Subject to rule 10(5) of the Rules, all subscriptions, fees or levies shall be paid either annually in advance, half yearly in advance, quarterly in advance, or fortnightly in advance at the option of the individual member. Where subscriptions, fees or levies are paid:
 - 10.3.1 Annually in advance, payment shall be made no later than January 1 in each year;

- 10.3.2 Half yearly in advance, payment shall be made no later than January 1, and July 1 in each year;
- 10.3.3 Quarterly in advance, payment shall be made no later than January 1, April 1, July 1, and October 1 in each year;
- 10.3.4 Fortnightly in advance, payment shall be made no later than the 1st day of each month and the 15th day of each month.
- 10.4 Where the member has entered into a direct debit arrangement with the Union, the member shall be financial from the date of the first direct debit deduction, provided that the member owes no arrears in subscriptions, fees or levies.
- 10.5 Notwithstanding the foregoing provisions of this rule 10 of the Rules, should any member during any financial year not be in receipt of the full award rate of pay owing to ill health or to other causes which the Executive regards as warranting special consideration, then, provided that the member was fully financial at the time that the member ceased to be in receipt of the full award rate, the Executive may grant the member exemption from payment of all or any subscriptions, fees or levies imposed in accordance with the Rules for all or part of the period during which the member is not in receipt of the full award rate. During the period of the exemption, the member shall be deemed to be financial.
- 10.6 Notwithstanding the foregoing provisions of this Rule, if a member is a financial member of another Organisation, up until the end of the calendar quarter as provided for in rule 10.3.3 of the Rules during which the member joins the Union, that member shall not be required to pay subscriptions, fees or levies for that quarter.

11. Membership Status

- 11.1 Except as provided in rule 11.3 and rule 11.4 of the Rules, only members who continue to meet the eligibility criteria specified in rule 3 of the Rules or who, after being admitted as members of the Union, are elected as Office Bearers or become employees of the Union, shall be entitled to remain as members.
- 11.2 A person no longer entitled to remain as a member shall cease to be a member and shall be removed from the Register of Members.
- 11.3 The Executive may make any person an Honorary Member for either a specified period of time or for that person's lifetime upon resolution by the Executive that the person has given meritorious service to the Union and its members.
 - 11.3.1 In the event that the Honorary Member was a member previously that person's honorary membership shall commence on and from that member's retirement, resignation or cessation of eligibility to remain a member.
 - 11.3.2 An Honorary Member shall be exempt from payment of subscriptions, fees, and levies but the Honorary Member shall not be entitled to vote in any election or ballot or at any meeting of the Union, nor to nominate for or hold any Office within the Union.
 - 11.3.3 Honorary Membership shall not be regarded as financial membership for the purposes of the Rules.
- 11.4 The Executive may make any employee an Associate Member who does not meet the eligibility criteria specified in rule 3 of the Rules. An Associate Member shall commence his/her membership on and from the date of the Executive's decision. An Associate Member shall not be entitled to vote in any election or ballot or at any meeting of the Union or hold any Office. An Associate member shall not be regarded as a financial member for the purposes the Rules. For all other purposes an Associate Member will be deemed to be a member of the Union.

12. *Financial Status of Members*

- 12.1 A member's membership of the Union lapses if the member is more than 3 months in arrears in the member's subscriptions or in the payment of any fees, or levies imposed in accordance with the Rules. Conversely, a member is financial if the member is not more than three months in arrears in the member's subscriptions or in the payment of any fees, or levies imposed in accordance with the Rules.
- 12.2 Notwithstanding the provisions of rule 12.1 of the Rules, any former member shall not become financial until that person pays all arrears owing.
- 12.3 When a member who is not financial makes a part payment or payments in relation to subscriptions, fees, or levies outstanding, such payment or payments shall be applied to the amounts owing in the same order in which such arrears were incurred with the amount outstanding longest being discharged first.
- 12.4 Notwithstanding any other requirement in these Rules, where a member is also a member of the RTBU and is a financial member of that Organisation, the member shall be taken to be, and treated as, a financial member of the Union.
- 12.5 If a member's membership of the Union has lapsed as a result of rule 12.1 of the Rules as at the date when nominations are called for the election of an Office Bearer that person shall not be eligible to vote in such an election.

13. *Resignation from Membership*

- 13.1 A member may resign from membership of the Union by written notice addressed and delivered to the Secretary.
- 13.2 A notice of resignation takes effect on the day on which the notice is served.
- 13.3 Any subscriptions, fees, and levies owing but not paid by a former member of the Union in relation to a period before the member's resignation took effect, may be sued for and recovered by the Union in a Court of competent jurisdiction, as a debt due to the Union.

- 13.4 A notice of resignation served upon the Secretary shall be deemed to have been received by the Union when it was served.
- 13.5 A notice of resignation that has been delivered to the registered office of the Union is not invalid merely because it was not addressed and served on the Secretary.
- 13.6 A resignation from membership of the Union is valid even if it is not effected in accordance with this Rule, if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.

14. *Duties of Members*

A member of the Union shall not:

- 14.1 Contravene or fail to observe any of the Rules;
- 14.2 Contravene or fail to observe any lawful resolution of the Executive or a Branch;
- 14.3 Give false or misleading information to the Union or an Office Bearer on any matter relating to the objects or affairs of the Union;
- 14.4 Divulge any of the confidential business of the Union to someone not entitled to know such information.
- 14.5 Obstruct the Union, the Executive or its Office Bearers in the performance of their functions under the Rules;
- 14.6 Defraud or attempt to defraud the Union;
- 14.7 Misappropriate any property of the Union;
- 14.8 Make a false charge against a fellow member;

- 14.9 Obstruct, insult or behave in an offensive manner towards any Office Bearer or employee of the Union who is acting in the course of their duties;
- 14.10 Violate or attempt to violate the terms of any applicable award or enterprise order or enter into or attempt to enter into any agreement with any employer contrary to the provisions of an applicable award or enterprise order;
- 14.11 Fail, without reasonable excuse, to attend any meeting of the Executive or of a Branch when summoned by such a body.

15. *Duties of the President*

- 15.1 In addition to any duties specified elsewhere in the Rules, the President shall:
 - 15.1.1 Preside at all meetings of the Executive and all general meetings of members;
 - 15.1.2 Preserve order and decorum at such meetings and shall confirm the minutes thereof; and
 - 15.1.3 Ensure that the Rules and the policies of the Union are adhered to.
- 15.2 The President may, when called upon to do so, interpret these Rules but such interpretation shall be subject to review by the Executive.
- 15.3 At all meetings of the Union, at which he/she presides, the President shall have a deliberative vote only.

16. *Duties of the Vice President*

- 16.1 In addition to any duties specified elsewhere in the Rules, the Vice President shall assist the President in the conduct of the President's formal duties.
- 16.2 In the absence of the President, the Vice President shall deputise for the President.

17. Duties of the Secretary

- 17.1 The Secretary shall be the principal officer of the Union.
- 17.2 Between meetings of the Executive, the Secretary shall, subject to the Rules and the policies and decisions of the Executive, have primary responsibility for the conduct and management of the affairs of the Union and do all things necessary to be done by or on behalf of the Union.
- 17.3 Without limiting the generality of the foregoing the Secretary shall:
 - 17.3.1 Discharge all duties assigned to the Secretary by the Rules, and the Executive;
 - 17.3.2 Summon and attend all meetings of the Executive;
 - 17.3.3 Where the Secretary considers it necessary, consult with the President on any urgent matters which require a decision between meetings of the Executive;
 - 17.3.4 Arrange for all Union correspondence to receive attention;
 - 17.3.5 Issue press statements and provide media comment in relation to the Union and its affairs;
 - 17.3.6 Be responsible for the safe custody of the Union seal, documents, securities and accumulated funds
 - 17.3.7 Prepare, keep and/or file or cause to be prepared, kept and/or filed, all union documents and records required under the provisions of the IRA or any other relevant legislation;
 - 17.3.8 Receive all monies belonging to the Union and deposit the same in the Union's bank account as soon as practicable;
 - 17.3.9 Disburse all Union funds in accordance with the Rules;
 - 17.3.10 Ensure that union financial records are maintained and that annual accounts are prepared and audited;

- 17.3.11 Monitor the accounts and other affairs of any Branch and for this purpose to have custody of and access to Branch documents and financial records;
- 17.3.12 Prepare or cause to be prepared, all necessary documents for the Executive including the minutes of Executive meetings;
- 17.3.13 Prepare or cause to be prepared, regular financial statements for the Executive;
- 17.3.14 Co-ordinate the activities of a Branch;
- 17.3.15 Control and supervise the Union office and its staff including the engagement and termination of such staff;
- 17.3.16 Maintain the Register of Members;
- 17.3.17 Maintain Register of Office Bearers;
- 17.3.18 Be responsible to the Executive for the proper performance of the Secretary's duties.

18. Rule deleted (Application 56/2013, 13 December 2013)

19. *Disciplinary Action Against Members*

- 19.1 A member may be charged by another member with a breach of his/her duties as a member. Such charge shall be in writing and signed by the member and delivered to the Secretary.
- 19.2 Upon receipt of the charge, the Secretary shall investigate the matter and, unless the Secretary decides that the matter is without substance, the Secretary shall refer the charge to the Executive for determination.
- 19.3 The Executive shall not find a member guilty of a breach of his/her duties as a member unless the member has been given notice and particulars of the charge made and has been given a reasonable opportunity to present any defence to the charge.

- 19.4 Subject to rule 19.5 of the Rules, the Executive shall have power to expel or suspend from membership or to rebuke or caution any member found guilty of a failure to fulfil his/her duties as a member.
- 19.5 Where a member is also an Office Bearer, he/she shall not be suspended or expelled from membership pursuant to this Rule, unless and until he/she has first been removed as an Office Bearer in accordance with the Rules.

20. *Register of Members and Office Bearers*

- 20.1 The Register of Members shall contain the names and the residential addresses of all members and shall be kept by the Secretary. The Register of Members shall show the membership category and financial status of the member.
- 20.2 The Register of Office Bearers shall contain the names, the residential addresses and occupations of all Office Bearers and shall be kept by the Secretary.

21. *Purging the Register and Cessation of Membership*

- 21.1 The Secretary shall as soon as practicable after a notice of resignation takes effect remove from the Register of Members the names and details of the persons who have resigned or whose membership has ceased.
- 21.2 The Secretary shall from time to time as directed by the Executive and in accordance with the provisions of rule 21.3 of the Rules, denote on the Register the non-financial status of all members owing subscriptions, fees, or levies for a period of more than three months and remove from the Register of Members all members who have ceased to be entitled to remain as members or have been expelled from membership under the Rules. Removal from the Register shall not waive, reduce or affect a member's liability for any arrears due to the Union.

- 21.3 The Secretary shall ensure the register is purged at least four times each year, at the beginning of the following months, January, April, July, October.

22. *Recovery of Dues*

The Secretary shall have power to authorise action in the name of the Union in a Court of competent jurisdiction to recover any subscriptions, fees, or levies due from any member and shall take such action when instructed to do so by the Executive.

PART IV – FINANCES

23. *Union Funds*

- 23.1 There shall be a Union Fund.
- 23.2 The Union Fund shall be managed and controlled by the Executive and shall consist of:
- 23.2.1 Any real or personal property that the Union owns;
 - 23.2.2 The amount of subscriptions and fees received by the Union;
 - 23.2.3 The amount of any levies imposed by the Executive;
 - 23.2.4 Any interest, rents or dividends derived from the investment or use of the Union Fund;
 - 23.2.5 Any superannuation or long service leave or other fund operated or controlled by the Union for the benefit of its officers or employees;
 - 23.2.6 Any sick pay fund, accident pay fund, funeral fund, tool benefit fund or like fund operated or controlled by the Union for the benefit of its members;
 - 23.2.7 Any property acquired by expenditure of the monies of the Union Fund or derived from other assets of the Union Fund; and
 - 23.2.8 The proceeds of any disposal of part of the Union Fund.

- 23.3 The Union Fund shall be used for the administration and management of the Union and for any other purpose that the Executive may from time to time direct towards the attainment of any of the objects of the Union.
- 23.4 All liabilities arising out of the administration and management of the Union including those liabilities arising from the control and management of real property within the Union Fund shall be the responsibility of the Union.
- 23.5 All real property forming part of a Union Fund shall be held and dealt with in the name of the Union but shall only be dealt with by the Union at the request of and in accordance with the instructions of the Executive.
- 23.6 The property, other than real property, comprising the Union Fund shall be held, deposited, invested or otherwise dealt with in the name of the Union provided that where it is necessary or advisable that any such property be held or dealt with by the Executive on behalf of the Union then it shall be so held or dealt with.

24. *Levies and Fees*

- 24.1 The Executive may from time to time strike a levy payable by all members of the Union.
- 24.2 All monies payable by members of the Union by way of entrance fees, subscriptions, levies, or other fees shall be paid to and collected by the Secretary. The Secretary shall receive and deal with such monies in accordance with the Rules.

25. *Disbursement of Union Funds*

- 25.1 All disbursements from the Union Fund shall be by cheque and signed by the Secretary together with the President. The Executive may authorise other members of the Executive or designated employees of the Union to sign in place of the Secretary or the President should either of the Secretary or President not be readily available.
- 25.2 The property of a Union Fund, other than the monies required for day to day operations, shall only be disbursed or otherwise dealt with upon a resolution of the Executive.

26. Loans, Grants or Donations

- 26.1 A loan, grant or donation of an amount exceeding \$1,000.00 shall not be made from the Union Fund unless the Executive has satisfied itself that the making of the loan, grant or donation would be in accordance with the Rules, and, 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 has approved the making of the loan, grant or donation.
- 26.2 Except as provided in rule 26.1 of the Rules, a loan, grant or donation can only be made by the Secretary.

27. Auditors

- 27.1 The Executive shall appoint annually, a duly qualified and competent auditor registered as an auditor under the *Corporations Act 2001 (Cwth)* who shall audit the Union accounts within 6 calendar months after the end of each financial year and provide a report, audited accounts and such further information and statements as may be required under any relevant legislation in relation to each financial year or in relation to any other period that the Executive may determine.
- 27.2 An auditor or firm of auditors appointed by the Executive may be removed during the term of appointment by resolution of the Executive.

28. Financial Year

The financial year for the Union shall be the period commencing on January 1 in any year and ending on December 31 in the same year.

29. Books and Accounts

The Secretary shall ensure that adequate books and accounts are kept and that the provisions of the IRA are complied with in relation to the maintenance, lodgement and distribution of financial records.

PART V – OFFICE BEARERS

30. Expenses of Office Bearers and Members

- 30.1 Office Bearers shall be entitled to be compensated for any travel, accommodation or other out-of-pocket expenses incurred as a result of attendance at meetings of the Union's Executive or Branches or because of engagement on authorised Union business.
- 30.2 Members engaged on authorised Union business shall be entitled to be compensated for any travel, accommodation or other out-of-pocket expenses incurred as a result of attendance at meetings of the Union's Executive or Branches or by engagement on authorised Union business.
- 30.3 The amount of such entitlement to be compensated for any travel, accommodation or other out-of-pocket expenses shall be determined from time to time by the Executive.
- 30.4 Office Bearers shall be entitled to be compensated for loss of pay incurred as a result of attendance at meetings of the Union's governing bodies or by engagement on authorised Union business. Members engaged on authorised Union business shall have a similar entitlement. The amount of such entitlement to be compensated for loss of pay shall be determined by the Executive.

31. Proxies

- 31.1 Any member of the Executive or of a Branch who is unable to attend at all or part of a meeting of such body, may be represented by another member as a proxy delegate.

- 31.2 A person appointed as a proxy delegate must be a financial member of the Union and except as specifically provided in this rule, no member of the Executive or a Branch shall be appointed as a proxy delegate for any other member of that meeting.

32. *Eligibility for Office*

- 32.1 Notwithstanding any provisions elsewhere in these Rules, a person is ineligible to nominate for an Office or to continue to hold an Office if the member's membership of the Union has lapsed pursuant to rule 12.1 of the Rules.
- 32.2 Where an Office Bearer ceases to be eligible to continue to hold office for any reason then the Secretary shall write to the Office Bearer advising that he/she is ineligible to continue to hold the Office and the reasons therefore. That advice shall invite the Office Bearer to submit any material he/she wishes to so submit within 14 days of the date of the written advice and shall advise the Office Bearer that the details of his/her ineligibility together with any submission from him/her will be placed before the next meeting of the Executive. The Executive shall consider the material submitted and if satisfied that the Office Bearer is ineligible to continue to hold Office under the provisions of the Rules, the Executive shall remove the person from Office with effect from the date of the Executive's decision.
- 32.3 Where an Office Bearer's membership has lapsed pursuant to rule 12.1 of the Rules, then he/she shall be deemed to be suspended from their Office and from all the rights and privileges attached to that Office on and from the date on which he/she becomes non-financial and until he/she becomes financial again. The Secretary shall write to the Office Bearer advising that he/she will be removed from Office unless he/she becomes financial within 14 days of the date of the letter. Where an Office Bearer fails to become financial within the 14 day period, then the Executive shall remove the person from Office with effect from the date of the Executive's decision.

33. General Obligations of Office Bearers and Action in Relation to Misconduct

- 33.1 An Office Bearer shall carry out their role in an honest, competent and diligent manner. An Office Bearer shall abide by the Rules of the Union and the policies and decisions of the Executive. An Office Bearer shall not act in a manner contrary to the best interests of the Union or seek to injure the Union in any way.
- 33.2 An Office Bearer who has been found to have breached their obligations as an Office Bearer may be reprimanded, warned, temporarily suspended from Office, or removed from office.
- 33.3 An Office Bearer may be removed from office, only if the Office Bearer has:
 - 33.3.1 Committed a misappropriation of the funds of the Union;
 - 33.3.2 Committed what the Executive finds is a substantial breach of the Rules;
 - 33.3.3 Committed what the Executive finds is a gross neglect of duty; or
 - 33.3.4 Otherwise ceased to be eligible to continue to hold Office under the Rules.
- 33.4 For the purposes of rule 33.3.2 of the Rules, a substantial breach of the Rules includes but is not limited to a persistent refusal of failure to abide by the obligations imposed by the Rules.
- 33.5 Any member, including an Office Bearer, wishing to invoke the provisions of this rule against an Office Bearer, shall detail in writing the conduct or circumstances alleged to justify disciplinary action and forward that written charge to the Secretary, who shall forward a copy to the person against whom the charge is made. When the Secretary forwards the written charge to the Office Bearer, that Office Bearer shall be requested to advise the Secretary whether they admit to or deny the charge and whether the Office Bearer wishes to make any comment thereon.

- 33.6 Where the Secretary is the person against whom the charge is made, then the charge shall be forwarded to the President, who shall take the actions that would otherwise be taken by the Secretary under this Rule.
- 33.7 At the next ordinary meeting of the Executive, the charge and any reply made by the Office Bearer against whom the charge is made, shall be considered and the Executive may resolve:
- 33.7.1 That the Office Bearer charged shall be called upon to show cause to the Executive why they should not be disciplined; or
- 33.7.2 That no further action be taken.
- 33.8 If the charge is to be proceeded with, the Office Bearer charged shall be called upon to attend before the Executive, at a stated time and place to show cause why they should not be disciplined. The Office Bearer charged shall be given at least 21 days notice of the time and place of the hearing. At least 14 days before the hearing, the person laying the charge shall provide the Office Bearer with particulars of the charge reasonably sufficient to enable the Office Bearer to know the nature of the allegations made against the Office Bearer and the circumstances alleged to justify disciplinary action.
- 33.9 An Office Bearer who has been charged may, by resolution of the Executive, be directed not to carry out some or all of the duties of their office pending the hearing and determination of the charge.
- 33.10 At the hearing, the person laying the charge and the Office Bearer charged:
- 33.10.1 Shall be heard in person if any of them desire;
- 33.10.2 May submit a written statement;
- 33.10.3 May call witnesses; and/or
- 33.10.4 May present evidence relevant to the charge.

- 33.11 No person shall be present at the hearing of the charge other than the person charged, the person laying the charge, the members of the Executive, and any witnesses called, provided that any witnesses called may only be present while such witness' evidence is being taken. No person other than members of the Executive shall be present after the hearing of the charge while the Executive is deliberating upon its decision in relation to the charge.
- 33.12 Where the member laying the charge or the person charged is a member of the Executive, then that person shall take no part in the deliberations of the Executive and shall absent himself/herself during the Executive's deliberations.
- 33.13 The Executive shall determine whether or not the charge has been proven and determine the appropriate penalty.

PART VI - ELECTIONS

34. *Election of Office Bearers*

The election of all Office Bearers shall take place in accordance with the provisions of the *Industrial Arbitration (Union Elections) Regulations 1980 (WA)* ("IA(UE) Regulations") in force as at the date that the Secretary requests the Registrar to make arrangements for the conduct of an election pursuant to section 69 IRA.

35. *Election Timetable and Assumption of Office*

- 35.1 The timetable for the election of Office Bearers shall be as prescribed in the IA(UE) Regulations with the first election to be held in 2012 and subsequent elections to be held every 4 years thereafter subject to any foreshortening of the term of any current Office Bearers as a result of a successful application by the Union under section 71 IRA.
- 35.2 The ballot shall be declared as soon as practicable after the counting of the votes.
- 35.3 Successful candidates shall take up the Office to which they have been elected on and from the declaration of the ballot.

36. Conduct of Elections

- 36.1 An election for an Office shall be conducted pursuant to section 69 IRA.
- 36.2 The Secretary shall request the Registrar to make arrangements for the conduct of an election.
- 36.3 An election for an Office shall be conducted by the returning officer by way of a direct voting system and shall be by secret postal ballot.
- 36.4 An election for an Office shall be by a direct voting system.

37. Returning Officer

- 37.1 The returning officer for the conduct of an election, including the acceptance or rejection of nominations, shall be the person holding office under the *Electoral Act 1907 (WA)* or by some other person authorised in writing by the Electoral Commissioner with whom the Registrar makes arrangements for the conduct of an election;
- 37.2 Any person nominating for election to an Office must have their nomination signed by 2 members who are financial as at the date of the nomination.
- 37.3 If the returning officer conducting an election finds a nomination to be defective, the returning officer shall before rejecting the nomination, notify the person concerned of the defect, and where it is practicable to do so, give him/her the opportunity of remedying the defect within 7 days after his being so notified.
- 37.4 The returning officer conducting an election shall make arrangements for absent voting.

38. Casual Vacancies

- 38.1 A casual vacancy occurs when an Office Bearer dies, resigns or is removed from office or ceases to hold office in accordance with the Rules.

- 38.2 Where a casual vacancy occurs in relation any Office Bearer and where the unexpired portion of a 4 year term of Office is more than 24 months or where the unexpired portion of a 2 year term of Office is more than 12 months, then an election shall be held to fill the Office in accordance with the provisions of rule 34 to rule 37 of the Rules and the person duly elected shall take office on and from the date of the declaration of the ballot.
- 38.3 Where an election is to be held pursuant to the provisions of rule 38.2 of the Rules, the Executive may appoint a person to fill a vacant Office pending the declaration of the ballot.
- 38.4 Where a casual vacancy occurs in relation to any Office within the Union and where the unexpired portion of a 4 year term of Office is less than 24 months or where the unexpired portion of a 2 year term of Office is less than 12 months, then the Executive may appoint a person to fill the casual vacancy.
- 38.5 Where a person is elected under rule 38.2 of the Rules or appointed under rule 38.4 of the Rules to fill a casual vacancy, then he/she shall hold office for the unexpired portion of the previous office holders term.

39. *Acting Appointments*

Where by reason of illness, absence on leave or any other reason, an Office Bearer, is unable to fulfil the duties of his/her office for a period exceeding 4 weeks, then the Executive may appoint one of its number to act in the Office for the duration of the absence with such appointee having all the rights and duties of the particular Office.

PART VII – GENERAL

40. *Irregularities*

- 40.1 The Executive or a Branch of the Union may continue to function notwithstanding any vacancy thereon provided that the requisite quorum is present.

- 40.2 No failure to give notice or other defect in the calling of any meeting of the Executive or any Branch shall invalidate the proceedings thereof unless such failure or defect results in the non-attendance of some member or members otherwise able and willing to attend. Provided that any such failure or defect may be waived by such member or members.
- 40.3 All communications sent to members or Office Bearers pursuant to the provisions of any of these Rules, may be sent to such member or Office Bearer at the last address notified by such person to the Union.
- 40.4 Except where the Rules provide for a specific form of communication, all communications to members or Office Bearers may be sent by post, facsimile transmission, email transmission or there like means and shall be deemed to have been received by such member of Office Bearer in the ordinary course of post, facsimile transmission, email transmission or like means, as the case may be.
- 40.5 Except in the case of disciplinary proceedings under rule 33 of the Rules, no decision or proceeding of the Executive or Branch provided for under these Rules shall be invalidated by the presence at or participation of any person not entitled to be present or to participate therein if, apart from such person, the requisite quorum was present and the vote of such a person did not determine the decision or the result of the proceedings.

41. Seal and Execution of Documents

- 41.1 The Union shall have a common seal and it shall be kept in the custody of the Secretary. The seal shall be affixed to any document required to be under seal by the President and the Secretary or by such other member or members of the Executive as may be determined by the Executive.
- 41.2 Union documents not required to be under seal shall be executed on behalf of the Union by the Secretary or in the Secretary's absence by the President, whose signature shall be attested to by one other member of the Executive.

42. *Arbitration Proceedings*

The Executive shall have authority to submit industrial disputes or matters to conciliation and/or arbitration in the WAIRC. The Union may be represented in relation to such disputes or matters by such Office Bearers or employees or agents as the Executive or, in the case of disputes or matters submitted by the Secretary, as the Secretary, may determine.

43. *Disputes between the Union and its members*

Any dispute between the Union and its members is to be decided:

- 43.1 In the event that it is a member that wishes to initiate a dispute the member shall apply to the WAIRC pursuant to the provisions of either section 44 IRA or section 66 IRA;
- 43.2 In the event that it is the Union through the Executive or the Secretary that wishes to initiate a dispute with a member, other than a dispute that falls within the provisions of rule 19 of the Rules dealing with disciplinary action against members, the Union shall apply to the WAIRC pursuant to the provisions of section 44 IRA.

44. *General Meetings of Members*

- 44.1 The Union may hold an Annual General Meeting in July of each year. The Executive shall present a report on the business of the preceding year at the Annual General Meeting.
- 44.2 A Special General Meeting of members may be called by the Executive and shall be called by the Executive upon receipt of a requisition signed by at least 10 per cent of the financial members of the Union.
- 44.3 The Secretary shall forward a notice of a general meeting of members to each member with an agenda no less than 14 days prior to the date of the general meeting.
- 44.4 No business shall be transacted at a Special General Meeting other than that stated in the notice convening the meeting.

- 44.5 A quorum for an Annual General Meeting shall be at least 50 financial members.
- 44.6 A quorum of a Special General Meeting shall be at least 20 per cent of the financial members.

45. *Amendment to the Rules*

- 45.1 Subject to rule 45.3 of the Rules, the Executive shall have power to rescind, alter or amend these Rules in accordance with the procedure set out in rule 45.2 of the Rules.
- 45.2 Any rescission, alteration or amendment to these Rules shall be of no effect unless it complies with the following provisions:
 - 45.2.1 The Secretary shall forward all members of the Executive written notice of the proposed rescission, alteration or amendment of the Rules which sets out the proposal in full;
 - 45.2.2 Such notice shall specify the time and place of the Executive meeting which is to consider the proposal for the rescission, alteration or amendment of the Rules, which meeting shall be not less than one month after the date of the notice;
 - 45.2.3 The resolution meets the requirements of these Rules for carriage of a resolution at a meeting of the Executive.
- 45.3 Any rescission, alteration or amendment to any provisions of these Rules shall be of no effect unless such rescission, alteration or amendment of the Rules is resolved to by the Executive.
- 45.4 Notwithstanding the foregoing in rule 45 of the Rules, the Executive shall also comply with any requirements as to the alteration of the Rules required by section 62 IRA that include but are not necessarily limited to:
 - 45.4.1 Notification to all members of the proposal for the alteration of the Rules and the reasons therefore along with a copy of the proposed alterations to the Rules;

45.4.2 Notification to all members that any member may object to the proposed alteration of the Rules by forwarding a written objection, within 21 days of notification, to the Registrar.

45.5 No alteration of the Rules shall be effective until the Registrar has given to the Union a certificate that the alteration to the Rules has been registered.

46. *Interpretation of the Rules*

46.1 The Executive shall have power to interpret any of these Rules and to determine any matter relating to the Union on which the Rules are silent.

46.2 Any interpretation of these Rules by the Executive shall be regarded as definitive and shall bind the union and its members.

46.3 Every interpretation of the Rules or declaration on matters on which the Rules are silent shall be recorded in the minutes of the Executive and no such interpretation or declaration shall have any affect unless it is so recorded.

47. *Standing Orders and Rules of Debate*

47.1 The following order of procedure shall be adhered to as far as practicable and relevant at all meetings of members of the Union, the Executive and a Branch:

47.1.1 The chairperson shall take the chair for the meeting and upon ascertaining that a quorum is present shall then declare the meeting open for the transaction of business;

47.1.2 Attendances and apologies;

47.1.3 Confirmation of the previous meetings minutes;

47.1.4 Any business arising from the previous minutes;

47.1.5 Correspondence received;

47.1.6 Financial statements and accounts;

47.1.7 Reports; and

47.1.8 General Business.

47.2 The following rules of debate shall be observed as far as practicable and relevant at all meetings of members of the Union, the Executive and a Branch:

47.2.1 No motion or amendment shall be entertained or discussed until it has been seconded and one amendment only shall be entertained at the one time but all amendments shall be considered and be put before the original motion.

47.2.2 On the adoption of any amendment it shall be held to have amended the original motion to the extent of the amendment and, for all purposes of subsequent discussion, any amendments so carried shall be acted upon as part of the original motion.

47.2.3 No amendment shall be received by the chairperson which is a direct negative to a motion which has been moved and seconded or does not preserve the substance of such motion.

47.2.4 In the event of the voting of any motion or amendment being equal, it shall be deemed to have been decided in the negative and shall be declared lost.

47.2.5 At any general meeting of members of the Union, 5 of the members present shall have the power to demand a division on any question.

47.2.6 At any general meeting of members of the Union notices of motion for debate shall be signed and handed to the chairperson during the meeting. The member making such motion shall read it aloud and the chairperson shall consider whether it is in order. A notice of motion shall not be proceeded with in the absence of the mover unless some other member present and duly authorised by the mover in writing that has been submitted to the chairperson takes up the motion in the event of the mover's absence.

47.2.7 To rescind any resolution previously passed and confirmed a month's notice must be given.

- 47.2.8 Any resolution may be recommitted during the period of the meeting at which it was passed on the affirmative votes of two thirds of those present at such meeting.
- 47.2.9 No member shall be allowed to speak more than once on any motion except strictly in explanation of or in contradiction of a misstatement excepting the mover of the original motion, who shall have the right to reply and be allowed 10 minutes to open and 5 minutes to reply. No other speaker shall occupy a longer period than 5 minutes. The meeting may however by resolution put by the chairperson on the proposition of two members and without debate, grant an extension of the time prescribed for a member to speak.
- 47.2.10 No further discussion shall take place nor shall questions be allowed after the mover has replied. When a motion is moved, the mover and the seconder shall have the right to speak. If no one rises to speak in opposition, the motion shall be put but should debate ensue, the order shall thereafter be alternatively one for and one against the motion.
- 47.2.11 On any member rising to a point of order during a meeting, the speaker shall sit down and the member on rising shall state the point of order upon which the chairperson shall rule which ruling shall be final provided it is not disagreed with by the majority of members present.
- 47.2.12 Every member who proposes or seconds any motion or amendment or who takes part in any discussion or puts, or replies to any question or makes any statement or any address or observation at any meeting shall while doing so stand up (unless prevented by bodily infirmity) and shall address himself/herself to the chairperson of the meeting. Every member attending any such meeting shall conduct himself/herself in an orderly manner.
- 47.2.13 Any member acting contrary to any of the rules of debate or using improper language shall be called to order by the chairperson and should he/she persist they shall be asked to withdraw from the meeting.

- 47.2.14 Voting at all meetings shall be by a show of hands. In order to expedite business the chairperson may, with the acquiescence of the meeting, decide any question on the voices.
- 47.2.15 When a motion of dissent from the chairperson's ruling is moved and formally seconded, only the mover of such motion shall be heard in support of it after which the chairperson shall be heard in reply and the motion shall then be put to the vote.
- 47.2.16 No subject or matter shall occupy the meeting for a longer period than 60 minutes, unless an extension of time is agreed to by a majority of members present.
- 47.2.17 The adjournment of the debate upon any matter under discussion may be moved for a given time after the question has been debated for any period up to twenty minutes but upon any motion being so determined, the subsequent time taken in debate shall not exceed the period set out in rule 46.2.16 of the Rules.
- 47.2.18 Members in their addresses shall not refer to individual members by name (this is to prevent points of order or personal explanations).
- 47.2.19 A motion may be superseded at any time by another motion "that this motion be discharged from the agenda paper" or that "the next business be proceeded with" being resolved in the affirmative. Either of such motions if seconded shall be put to the meeting without discussion.
- 47.2.20 Any member who has not previously spoken in the debate shall have the right to move "that the question be now put" at any time during the course of the debate. Such motion if seconded shall be put to the meeting without discussion, and if carried, the motion before the meeting shall be put without further discussion, after the mover of the original motion has been given the opportunity of closing the debate.
- 47.2.21 Any member desiring to correct an alleged misstatement during any debate shall not be permitted to do so until the speaker has resumed his/her seat.

- 47.2.22 A motion to suspend standing orders or rules of debate in order to deal with any matter may be moved at any time during the currency of the meeting.

PART VIII - OFFICE BEARERS TO BE PERSONS HOLDING OFFICE IN PTA BRANCH

48. *PTA Branch of RTBU*

- 48.1 Each Office of the Union from such time as the Executive may determine shall be held by the person who in accordance with the rules of the PTA Branch of the RTBU holds the corresponding office in that body.
- 48.2 Any determination by the Executive in accordance with rule 48.1 shall be notified to the Registrar and from the date specified in the notification all Offices in the Union will be filled in accordance with rule 48.1.

SCHEDULE 1 – DEED OF AGREEMENT

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The 21st day of May 2015

DEED OF AGREEMENT

BETWEEN:

**THE AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY
UNION OF EMPLOYEES, WEST AUSTRALIAN BRANCH**

AND

AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION

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THIS DEED OF AGREEMENT is made the 21st day of May 2015

BETWEEN:

**THE AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION OF EMPLOYEES,
WEST AUSTRALIAN BRANCH** of 2/10 Nash Street, Perth 6000 Western Australia

AND

AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION of Level 2 Trades Hall, 4-10 Goulburn Street, Sydney 2000 New South Wales

Recitals

- A. The RTBU is an organisation registered pursuant to the FW(RO)A.
- B. The RTBU is divided into branches and in Western Australia has two branches one of which is the PTA Branch the other being the RTBU WA Branch.
- C. All the members of the RTBU employed in Western Australia are in accordance with the RTBU's rules assigned to either the PTA Branch or the RTBU WA Branch.
- D. ARTBIU is an organization registered in the state of Western Australia pursuant to the *Industrial Relations Act WA 1979* (IRA).
- E. The IRA provides that an organization registered pursuant to the FW(RO)A (in this recital ("the federal body")) is a counterpart federal body of an organization registered pursuant to the IRA ("registered organization") if members of the registered organization are:
 - 1. Members, or eligible to be members, of the federal body;
 - 2. Engaged in the same work, in aspects of the same work, or in similar work as members of the federal body;
 - 3. Employed in the same or similar work by employers engaged in the same industry as members of the federal body; or
 - 4. Engaged in work or in industries for which there is a community of interest between the federal body and the registered organization.
- F. All members of the ARTBIU are eligible to be members of the RTBU PTA Branch.
- G. All members of the ARTBIU are employed in the same or similar work by employers engaged in the same industry as that to which eligible members of the PTA Branch are employed.
- H. All the members of the ARTBIU are engaged in the same work or in industries for which there is a community of interest between the ARTBIU and the RTBU PTA Branch.

- I. The RTBU is the counterpart federal body of the ARTBIU pursuant to the section 71(1) of the IRA.
- J. The RTBU is the federal counterpart of the ARTBIU pursuant to section 9A of the FW(RO)A.
- K. The objects of the RTBU are also substantially those of the ARTBIU.
- L. An unwritten administrative agreement exists, and has existed for many years, between the RTBU and the ARTBIU that is directed at reducing demarcation, reducing costs and enhancing efficiency in attaining the objects of the RTBU, and the ARTBIU.
- M. The parties wish to set out in writing terms of the unwritten administrative arrangement that has existed for many years between the RTBU and the ARTBIU in this Deed and to have this Deed approved by the Full Bench pursuant to section 71(7) of the IRA and subsequently have the Deed registered as an alteration to the rules of the ARTBIU by the Registrar.
- N. The parties seek by that this Deed to, amongst other things:
 - 1. Reduce administrative costs to members assigned to the RTBU WA and PTA branches;
 - 2. Reduce the replication of services to its members assigned to the RTBU WA and PTA branches;
 - 3. Reduce the confusion that arises in relation to the two entities providing similar services to dual members; and
 - 4. Enhance the efficiency and effectiveness of representation of dual members.
- O. The RTBU must employ the industrial staff required to ensure that the obligations owed by the RTBU to members of the PTA Branch are met.
- P. The RTBU intends to be bound by, and as a consequence the PTA Branch will be bound by, the terms of this Deed.
- Q. The ARTBIU intends to be bound by the terms of this Deed.

The parties agree as follows:

1. Definitions

In this Deed the following words and phrases have the meanings assigned:

- (a) **"ARTBIU"** means The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch

- (b) **"ARTBIU Branch Services"** means the facilities and services provided to the ARTBIU in accordance with clause 4;
- (c) **"ARTBIU Rules"** means the registered rules of the ARTBIU;
- (d) **"Commencement Date"** means the date of the execution by the last party in time to execute this Deed;
- (e) **"Commission"** means the body continued and constituted under the IRA under the name of *The Western Australian Industrial Relations Commission*;
- (f) **"Deed"** means this Deed inclusive of the Recitals;
- (g) **"dual member"** means a person who is a member of both the RTBU and the ARTBIU;
- (h) **"Full Bench"** means the Commission constituted as provided by section 15(1) IRA;
- (i) **"FW(RO)A"** means the *FairWork (Registered Organisations) Act 2009*;
- (j) **"IRA"** means the *Industrial Relations Act WA 1979*;
- (k) **"PTA Branch"** means the RTBU, West Australian PTA Branch as constituted by Part XVI of the RTBU Rules;
- (l) **"Recitals"** means the recitals at the beginning of this Deed;
- (m) **"Registrar"** means the chief executive officer of the *Department of the Registrar Western Australian Industrial Relations Commission* as provided for in the IRA;
- (n) **"RTBU"** means the Australian Rail, Tram and Bus Industry Union;
- (o) **"RTBU Rules"** means the registered rules of the RTBU; and
- (p) **"RTBU WA Branch"** means the RTBU, Western Australian Branch constituted by Part XV of the RTBU Rules;
- (q) **"s. 71 Certificate"** means a certificate issued pursuant to section 71(5) of the IRA by the Western Australian Industrial Relations Commission as a result of application FBM 6 of 2013.

2. Interpretation

In this Deed, unless the context indicates a contrary intention;

- (a) The singular includes the plural and the plural includes the singular;
- (b) A reference to a statute includes any:

- (i) Statute amending, consolidating or replacing that statute;
 - (ii) Regulation made under the statute as that regulation as is in force from time to time;
 - (c) Any expression, term, phrase or word used is to be interpreted consistently;
 - (d) Headings will not be taken into account in interpretation;
 - (e) A reference to a "clause" is, unless the context clearly indicates otherwise, a reference to a clause of this Deed;
 - (f) A reference to a "sub-clause" means, unless the context clearly indicates otherwise, a sub-clause of the clause in which the reference to the sub-clause is made;
 - (g) A reference to a "part" means, unless the context clearly indicates otherwise, a part of the sub-clause in which the reference to the part is made;
 - (h) A reference to a "Recital" is a reference to as recital of this Deed;
 - (i) A reference to a "Schedule" is a reference to a schedule to this Deed, and the schedule is to be read as a part of this Deed and consistently with it;
 - (j) A reference to a "day" in this Deed is a reference to the days Monday to Friday both inclusive, public holidays in Western Australia and New South Wales excepted;
 - (k) A reference to a "month" is a reference to a calendar month;
 - (l) A reference to "business hours" in this Deed is a reference to the hours of 9.00am to 5.00pm Australian Western Standard Time;
 - (m) Where any period of time, dating from a given day, act or event is prescribed or allowed for any purpose, the period, unless the contrary intention appears, is calculated exclusive of such day or the day of such act or event;
 - (n) Where the last day of any period prescribed or allowed in or by this Deed for the doing of any thing falls on a Saturday or Sunday or on a day which is a public holiday in the place in the place in which the thing is to be or may be done, the thing may be done on the first following day which is not a Saturday, Sunday or a public holiday in that place.
-

3. Forbearance by the ARTBIU

The ARTBIU agrees to not collect entrance fees or subscriptions from a dual member for the period that:

- (a) The ARTBIU Rules provide that a member of the ARTBIU will be financial if the member is a financial member of the RTBU assigned to the PTA Branch; or
 - (b) The dual member maintains their financial membership of the RTBU and is assigned to the PTA Branch; or
 - (c) This Deed is in effect.
-

4. Facilities and Services to ARTBIU

- (a) The RTBU, through its PTA Branch, agrees that the RTBU will provide to the ARTBIU the following services:
 - (i) Provision of industrial services;
 - (ii) Access to legal advice;
 - (iii) Provision of WorkCover services;
 - (iv) Provision of recruiting services for new dual members;
 - (v) Provision of all services relating to the ARTBIU's compliance with the IRA and/or any other relevant Western Australian legislation;
 - (vi) Provision of financial services;
 - (vii) Provision of administrative services;
 - (viii) Provision of administrative services relating to dual members inclusive of the provision of registrars, payment systems and other systems;
 - (ix) Provision of accounting and auditing services;
 - (x) Provision of letterhead, membership forms, and any other printed or written material that the ARTBIU reasonably require to be produced;
 - (xi) Provision of journals;
 - (xii) Provision of notices to members of the ARTBIU;
 - (xiii) Provision of equipment, including computing equipment, as may be necessary for the officers and/or officials and/or agents of the ARTBIU to perform their respective obligations;

- (xiv) Provision of the necessary staff, plant equipment, vehicles and other resources to ensure that the ARTBIU meets its obligations to the members assigned to it and meet its obligations as an organisation, registered pursuant to the IRA
 - (b) The RTBU will, to the extent only of the PTA Branch, meet the financial liabilities (if any) of the ARTBIU, properly and legally incurred by the ARTBIU in discharging its obligations pursuant to its rules and/or this Deed.
-

5. Membership

- (a) The Membership Application Form, to be used by the PTA Branch and the ARTBIU, will be a joint Membership Application Form that provides for persons who apply to join PTA Branch, also apply to join the ARTBIU and vice versa.
 - (b) The RTBU will promptly inform the ARTBIU of any resignations it receives from persons who were members of the RTBU and assigned to the PTA Branch.
 - (c) The ARTBIU will promptly inform the RTBU PTA Branch of any resignations it receives from persons who were members of the ARTBIU.
-

6. Joint Expenditure and Resourcing

- (a) The ARTBIU acknowledges, subject to clause 3, that the RTBU PTA Branch and WA Branch may jointly employ employees and jointly utilise other resources necessary to ensure that the ARTBIU's obligations to the members of the ARTBIU, pursuant to the rules of the ARTBIU, are discharged.
- (b) The parties agree that the Secretary of the RTBU PTA Branch and WA Branch will consult, as necessary, to ensure that the resources of the parties are effectively utilised, and that inconsistent instructions are not issued with respect to the use of employees and other resources, in delivering services and facilities in accordance with clause 4.
- (c) The RTBU PTA and WA Branches undertake, consistently for the undertakings set out in clause 4, that it is jointly responsible for the payment of general resources (including, but not limited to office space, utilities and other outgoings) and the payment of joint employees including all wages, all accrued entitlements and any other associated administrative expense.

- (d) The parties agree that the RTBU PTA and WA Branches will share costs for the totality of work performed and the parties each acknowledge that: whilst costs incurred for the purposes of the PTA Branch or WA Branch may vary on any given day, the costs incurred will over time balance out as between the RTBU WA Branch and PTA Branch in respect of its undertaking in clause 4.
- (e) The parties acknowledge that the RTBU PTA and WA Branches shall complete annual returns (including numbers of members) in accordance with obligations under the Fair Work (Registered Organisations) Act 2009
- (f) The parties agree that for the following year all costs expended by the RTBU in accordance with this deed shall be distributed between the WA and PTA Branches in proportion to the number of members in each branch reported in sub-clause (f) above.
- (g) For the purposes of this clause joint employees do not include:
 - (i) Elected full time officers of the RTBU PTA Branch and/or ARTBIU;
 - and
 - (ii) Elected full time officers of the RTBU WA Branch

insofar as the RTBU or the ARTBIU are responsible, in accordance with their rules, to make payment to those officers for performing their office or position as the case may be. Payments for these full-time elected officials remain the responsibility of the individual branch.

7. Further Services

The RTBU, in relation to the PTA Branch, and the ARTBIU agree that the RTBU and the ARTBIU may, in writing, agree to the provision of further or additional facilities or services, other than those provided in clause 4.

8. Geographical Provision

The RTBU, in respect of its PTA Branch, agrees to provide the ARTBIU Branch Services throughout Western Australia.

9. Commencement

This Deed commences on the commencement date and will continue until terminated.

10. Review

The ARTBIU and RTBU, in respect of the PTA Branch, agree that the provision of the ARTBIU Branch Services, or of any particular facility or service, will be reviewed, as either of the parties may request, by the giving of twenty one (21) days' written notice to the other party.

11. Dispute Resolution

In the event of a dispute about matters arising under this Deed, the procedure to resolve the dispute will be as follows:

- (a) The RTBU National Secretary and the ARTBIU Secretary will meet and confer on the matter;
- (b) If the dispute cannot be resolved by the RTBU National Secretary and the ARTBIU Secretary pursuant to sub-clause (a), it may be referred to a mutually acceptable person for resolution by agreement;
- (c) In the absence of agreement as to a mutually acceptable person, the person will be nominated by the National Executive of the RTBU;
- (d) If a dispute is referred pursuant to sub-clause (b), the person to whom the dispute is referred may take any or all of the following actions as they consider appropriate to resolve the dispute:
 - (i) Convene a conciliation of the parties to the dispute;
 - (ii) Conciliate or make recommendations about particular aspects of a matter about which the parties are unable to reach agreement; and
 - (iii) Where a dispute cannot be resolved (including by conciliation) and both parties so request, determine the dispute.
- (e) Subject to the rights of either party to enforce any aspect of this Deed in accordance with clause 19 of this Deed, the parties will treat any determination made under sub-clause (d) as binding upon them.

12. Termination

The operative provisions of this Deed will remain in full force and effect only during such time as the s.71 Certificate remains valid and effective and will terminate simultaneously with the s.71 Certificate becoming or being held to be invalid and/or ineffective.

13. Relationship of the Parties

- (a) Neither the RTBU, inclusive of its PTA Branch, nor the ARTBIU has any power, right or authority to bind the other, or to assume or create any obligation or responsibility, express or implied, on behalf of the other or in the other's name.
- (b) Nothing stated in this Deed will be construed as constituting the RTBU, inclusive of its PTA Branch, and the ARTBIU as partners, or as creating the relationship of employer and employee or principal and agent between the parties.

14. Ratification of Prior Dealings & Release from Obligations

- (a) The parties hereby agree that in respect of their conduct in relation to their prior dealings with each other prior to the execution of this Deed they hereby ratify all acts done during the course of their dealings.
- (b) Further in consideration of the entering into this deed they each release the other from all claims for repayment of any monies paid and/or received the one from the other including all claims in respect of any related interest, costs or expenses.

15. Return of ARTBIU's Documents

- (a) Upon the termination of this Deed, the RTBU will deliver to the ARTBIU all of the ARTBIU's records, books and other documentation, whether in printed or in electronic form, whether prepared by the RTBU, its PTA Branch, or another person, that is in the RTBU's possession or control.

16. Return of RTBU's Documents

- (a) Upon the termination of this Deed, the ARTBIU will deliver to the RTBU all of the RTBU's records, books and other documentation, whether in printed or in electronic form, whether prepared by the ARTBIU, or another person, that is in the ARTBIU's possession or control.

17. Property and Assets

- (a) The parties agree that the preservation of assets must be safeguarded in the interests of the entire RTBU and ARTBIU membership and that no assets (including real property) shall be disposed of or otherwise dealt with without the consent of the RTBU National Executive and ARTBIU Executive.
-

18. Notices

- (a) Any notice, demand, consent or other communication (in this clause, a "Notice") unless otherwise expressly provided for in this Deed:
 - (i) Must be in writing and signed by the sender or a person duly authorized by the sender;
 - (ii) Given on a day as that expression is defined in this Deed;
 - (iii) Must be addressed and delivered to the intended recipient at the address or fax number set out below or the address or fax number last notified by the intended recipient to the sender after the date of this Deed:

A. To the ARTBIU:

The Branch Secretary
2/10 Nash Street
Perth WA 6000

Facsimile No: 08 92256733

B. To the RTBU:

The National Secretary
Suite 201
Trades Hall
4-10 Goulburn Street
SYDNEY NSW 2000

Facsimile No: 02 9319 2096

- (b) A Notice will be taken to be duly given or made when delivered, received or left at the fax number or address provided for in sub-clause (a), provided that if delivery or receipt occurs later than 4pm (local time) at the place of delivery, it will be taken to have been given or made at the commencement of business on the next day.

19. Governing Law

This Deed will be governed and construed in accordance with the laws of the Commonwealth and the State of Western Australia and the parties will submit to the non-exclusive jurisdiction of the courts of that State in respect of any dispute of whatsoever nature arising under this Deed or its implementation or enforcement.

20. Severance

If the form, or any clause, sub-clause, paragraph, sub-paragraph or part thereof, of this Deed is held or found to be void, invalid, unenforceable, it will be deemed to be severed to the extent that it is void or voidable, invalidity or unenforceability, but the remainder of this Deed will remain in full force and effect.

21. Counterpart

- (a) This Deed may be executed in any number of counterparts and all counterparts, taken together will form one agreement.
- (b) A party may execute this Deed by executing any counterpart thereof.

22. Execution

EXECUTED as a deed by and under the seal of THE AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION OF EMPLOYEES, WEST AUSTRALIAN BRANCH by its authorized officers in accordance with rule 41.1 of its rules:



Signature of Secretary
Paul Robinson



Signature of President
Craig Dearth



EXECUTED as a deed by and under the seal of the AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION by its authorized officers in accordance with rule 84 of its rules:



Signature of National Secretary
Bob Nanva



Signature of National President
Phil Altieri



WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

PARTIES THE AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY UNION OF
EMPLOYEES, WEST AUSTRALIAN BRANCH

APPLICANT

CORAM FULL BENCH
THE HONOURABLE J H SMITH, ACTING PRESIDENT
CHIEF COMMISSIONER A R BEECH
COMMISSIONER S J KENNER

DATE MONDAY, 12 MAY 2014

FILE NO/S FBM 6 OF 2013

CITATION NO. 2014 WAIRC 00399

Result Declaration and order issued

Appearances

Applicant Mr P G Laskaris (of counsel)

Declaration and Order

This matter having come on for hearing before the Full Bench on 12 May 2014, and having heard Mr P G Laskaris (of counsel) on behalf of the applicant, the Full Bench, pursuant to the powers conferred on it under the *Industrial Relations Act 1979*, hereby declares and orders that —

- (1) (a) The Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch is the counterpart Federal body (the counterpart Federal body) of The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch (the State Organisation).
- (b) The rules of the State Organisation and its counterpart Federal body relating to the qualification of persons for membership are deemed to be the same.
- (c) The rules of the counterpart Federal body prescribing the offices that exist in the counterpart Federal body are deemed to be the same as the offices that exist in the State Organisation.
- (2) The application is hereby and is otherwise dismissed.

By the Full Bench

ACTING PRESIDENT

APPLICATION FOR DECLARATION PURSUANT TO S 71(2) AND APPLICATION
PURSUANT TO S.62 - ALTERATION OF REGISTERED RULES: ADDITION OF PART VIII
- OFFICE BEARERS TO BE PERSONS HOLDING OFFICE IN PTA BRANCH

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

FULL BENCH

CITATION : 2014 WAIRC 00438

CORAM : THE HONOURABLE J H SMITH, ACTING PRESIDENT
CHIEF COMMISSIONER A R BEECH
COMMISSIONER S J KENNER

HEARD : TUESDAY, 25 MARCH 2014, MONDAY, 12 MAY 2014

DELIVERED : WEDNESDAY, 28 MAY 2014

FILE NO. : FBM 6 OF 2013, FBM 7 OF 2013

BETWEEN : THE AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY
UNION OF EMPLOYEES, WEST AUSTRALIAN BRANCH
Applicant

CatchWords : Industrial Law (WA) - Application pursuant to s 71 for declaration relating to qualifications of persons for membership of a State Branch of a Federal organisation and offices that exist within the State organisation - Application to alter rules of an organisation to enable the holders of an office in the counterpart Federal body to hold an office in a State organisation

Legislation : *Industrial Relations Act 1979* (WA) s 55(4), s 55(4)(b), s 55(4)(c), s 55(4)(d), s 55(4)(e), s 56(1), s 62(2), s 62(4), s 71, s 71(2), s 71(3), s 71(4), s 71(5), s 71(5)(a)

Fair Work (Registered Organisations) Act 2009 (Cth) s 159(1), s 182(2)

Result : Orders and declaration made

Representation:

Applicant : Mr P G Laskaris (of counsel)

Case(s) referred to in reasons:

Jones v Civil Service Association Inc [2003] WASCA 321; (2003) 84 WAIG 4

Re Western Australian Prison Officers' Union of Workers [2014] WAIRC 00006; (2014)
94 WAIG 62

Reasons for Decision

FULL BENCH:

Introduction

- 1 The Full Bench had before it two applications made under the *Industrial Relations Act 1979* (WA) (the Act). In FBM 6 of 2013, the applicant (the State organisation) sought the following declarations:
 1. Pursuant to sec. 71(2) of the *Industrial Relations Act 1979* ('IR Act') the rules of the Applicant and the Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch ('PTA Branch') of the Australian Rail, Tram and Bus Industry Union ('RTBU'), being a counterpart Federal Body as defined in sec. 71(1) IR Act relating to qualification of person for membership are in the Full Bench's opinion deemed to be the same;
 2. Pursuant to sec. 71(4) of the IR Act that the rules of the Applicant and the PTA Branch of the RTBU, being a counterpart Federal Body as defined in sec. 71(1) IR Act, prescribing the offices which exist in the PTA Branch of the RTBU are deemed to be the same as the rules of the Applicant prescribing the offices which exist in the Applicant there being for every office in the Applicant a corresponding office in the PTA Branch of the RTBU; and
 3. Conditional upon a certificate being issued by the Registrar to the Applicant pursuant to sec. 71(5) of the IR Act then pursuant to sec. 71(7) of the IR Act the terms of the deed between the Applicant and the RTBU made for the purposes of sec. 71(6) of the IR Act relating to the management and control of the funds and property of the Applicant are not detrimental to the interests of the persons who are eligible to be members of the Applicant and of the PTA Branch of the RTBU and will not prevent or hinder the Applicant from satisfying any debt or obligation howsoever arising and is approved.
- 2 In FBM 7 of 2013, the State organisation made an application pursuant to s 62(2) and s 71(5)(a) of the Act to insert a new Part VIII of the rules of the State organisation to provide for officers holding office in its counterpart Federal body to hold a corresponding office in the State organisation.
- 3 After hearing counsel for the State organisation on 12 May 2014, the Full Bench was of the opinion that the applications should be granted and it made the following orders:
 - (a) In FBM 6 of 2013 the following order and declaration was made:
 - (1) (a) The Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch is the counterpart Federal body (the counterpart Federal body) of The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch (the State Organisation).
 - (b) The rules of the State Organisation and its counterpart Federal body relating to the qualification of persons for membership are deemed to be the same.
 - (c) The rules of the counterpart Federal body prescribing the offices that exist in the counterpart Federal body are deemed to be the same as the offices that exist in the State Organisation.
 - (2) The application is hereby and is otherwise dismissed.
 - (b) In FBM 7 of 2013 the following order was made:

The Registrar is hereby authorised to register the alteration to the rules of the applicant by inserting new Part VIII after r 47.2.22:

PART VIII - OFFICE BEARERS TO BE PERSONS HOLDING OFFICE IN PTA BRANCH

48. PTA Branch of RTBU

48.1 Each Office of the Union from such time as the Executive may determine shall be held by the person who in accordance with the rules of the PTA Branch of the RTBU holds the corresponding office in that body.

48.2 Any determination by the Executive in accordance with rule 48.1 shall be notified to the Registrar and from the date specified in the notification all Offices in the Union will be filled in accordance with rule 48.1.

- 4 These reasons set out the reasons why the Full Bench made the orders and declarations.

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- 5 The State organisation is a registered organisation that represents employees employed by the Public Transport Authority of Western Australia. The State organisation became registered as an organisation under the Act on 12 March 1999 when the Australian Railways Union of Workers, (WA Branch) and The West Australian Locomotive Engine Drivers', Firemen's and Cleaners' Union of Workers amalgamated: (1999) 79 WAIG 975. At the time of registration the State organisation operated under the incorrect assumption that an effective s 71 certificate under the Act, relating to a Branch of its Federal organisation, the Australian Rail, Tram and Bus Industry Union (RTBU), was in place. As a consequence of this assumption, from 1999 to early 2012 the State organisation failed to keep a proper and current list of its members and had failed to hold elections for office bearers. After the irregularity was revealed, steps were taken to regularise the state of affairs of the State organisation and these are recorded in reasons for decision given by the Full Bench in FBM 3 of 2012: [2012] WAIRC 00431; (2012) 92 WAIG 747.
- 6 After the decision of the Commission was given in FBM 3 of 2012, and after the Registrar registered new rules which substituted the old rules of the State organisation in its entirety, elections for office bearers of the State organisation were held in September 2012.
- 7 On 23 November 2012, the Fair Work Commission, pursuant to an application by the RTBU under s 159(1) of the *Fair Work (Registered Organisations) Act 2009* (Cth) for the alteration of its rules, the delegate of the General Manager of the Fair Work Commission certified the alteration of rules of the RTBU which resulted in the creation of the Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch (PTA Branch). On 7 April 2014, further alterations to the rules of the RTBU were made to correct some errors and omissions.
- 8 There are currently no elected office bearers of the PTA Branch of the RTBU. It is proposed, however, that subject to an application by the RTBU to the Fair Work Commission pursuant to the provisions of s 182(2) of the *Fair Work (Registered Organisations) Act*, an exemption be obtained for the election of office bearers of the PTA Branch until the next general election for offices in the RTBU scheduled for November 2014. If, however, such application is not granted by the Fair Work Commission, then the election of office bearers of the PTA Branch will be conducted immediately upon the granting of the orders and declarations sought from the Full Bench in this application.

- 9 The State organisation seeks a declaration pursuant to s 71(2) of the Act to facilitate the orderly and efficient administration and co-ordination of the State organisation and its counterpart Federal body who is the PTA Branch by only having one set of elections to fill the corresponding offices of each organisation. A certificate issued pursuant to s 71(5) of the Act will also enable it to make an agreement with the RTBU relating to the management and control of funds. Section 71 of the Act provides:

- (1) In this section —

Branch means the Western Australian Branch of an organisation of employees registered under the *Fair Work (Registered Organisations) Act 2009* (Commonwealth);

counterpart Federal body, in relation to a State organisation, means a Branch the rules of which —

- (a) relating to the qualifications of persons for membership; and
- (b) prescribing the offices which shall exist within the Branch,

are, or, in accordance with this section, are deemed to be, the same as the rules of the State organisation relating to the corresponding subject matter; and

State organisation means an organisation that is registered under Division 4 of Part II.

- (2) The rules of the State organisation and its counterpart Federal body relating to the qualifications of persons for membership are deemed to be the same if, in the opinion of the Full Bench, they are substantially the same.
- (3) The Full Bench may form the opinion that the rules referred to in subsection (2) are substantially the same notwithstanding that a person who is —
 - (a) eligible to be a member of the State organisation is, by reason of his being a member of a particular class of persons, ineligible to be a member of that State organisation's counterpart Federal body; or
 - (b) eligible to be a member of the counterpart Federal body is, for the reason referred to in paragraph (a), ineligible to be a member of the State organisation.
- (4) The rules of a counterpart Federal body prescribing the offices which shall exist in the Branch are deemed to be the same as the rules of the State organisation prescribing the offices which shall exist in the State organisation if, for every office in the State organisation there is a corresponding office in the Branch.
- (5) Where, after the coming into operation of this section —
 - (a) the rules of a State organisation are altered pursuant to section 62 to provide that each office in the State organisation may, from such time as the committee of management of the State organisation may determine, be held by the person who, in accordance with the rules of the State organisation's counterpart Federal body, holds the corresponding office in that body; and
 - (b) the committee of management of the State organisation decides and, in the prescribed manner notifies the Registrar accordingly, that from a date specified in the notification all offices in the State organisation will be filled in accordance with the rule referred to in paragraph (a),

the Registrar shall issue the State organisation with a certificate which declares —

- (c) that the provisions of this Act relating to elections for office within a State organisation do not, from the date referred to in paragraph (b), apply in relation to offices in that State organisation; and

- (d) that, from that date, the persons holding office in the State organisation in accordance with the rule referred to in paragraph (a) shall, for all purposes, be the officers of the State organisation,

and the certificate has effect according to its tenor.

- (6) A State organisation to which a certificate issued under this section applies may, notwithstanding any provision in its rules to the contrary, make an agreement with the organisation of which the State organisation's counterpart Federal body is the Branch, relating to the management and control of the funds or property, or both, of the State organisation.
- (7) Where a memorandum of an agreement referred to in subsection (6) is —
 - (a) sealed with the respective seals of the State organisation and the other organisation concerned; and
 - (b) signed on behalf of the State organisation and the other organisation by the persons authorised under their respective rules to execute such an instrument; and
 - (c) lodged with the Registrar,

the Full Bench may, if it is satisfied that the terms of the agreement are not detrimental to the interests of persons who are eligible to be members of the State organisation and of its counterpart Federal body and will not prevent or hinder the State organisation from satisfying any debt or obligation howsoever arising, approve the agreement.
- (8) Where the Full Bench approves an agreement under subsection (7) the Registrar shall —
 - (a) register the memorandum as an alteration to the rules of the State organisation; and
 - (b) amend, where necessary, the certificate issued to the State organisation under subsection (5) by declaring that the State organisation is, from the date of registration of the memorandum, exempted from compliance with such provisions of this Act and to such an extent as the Full Bench may, having regard to the terms of the memorandum, direct; and
 - (c) notify the State organisation in writing of the matters referred to in paragraphs (a) and (b).
- (9) After the issue to a State organisation of a certificate or an amended certificate under this section —
 - (a) the rule referred to in subsection (5)(a) and a memorandum registered under subsection (8)(a) shall not be altered unless the alteration is approved by the Full Bench; and
 - (b) an alteration to any rule of the State organisation other than the rule referred to in paragraph (a) may be registered by the Registrar if he is satisfied that the rule as so altered is the same as a rule of the State organisation's counterpart Federal body; and
 - (c) every member of the State organisation's counterpart Federal body who is eligible to be a member of the State organisation shall, for all the purposes of this Act and of any award, industrial agreement or order, be deemed to be a member of the State organisation.
- (10) Before granting approval to an alteration of the rule or memorandum referred to in subsection (9)(a), the Full Bench may require compliance by the State organisation with such conditions as the Full Bench considers appropriate.

(a) Are the rules of the State organisation and its counterpart Federal body relating to the qualifications of persons for membership the same or can they be deemed to be the same?

- 10 Pursuant to r 3.1 of the rules of the State organisation, any person employed in the Public Transport Authority of Western Australia who is an employee within the meaning of the Act may be admitted as a member of the State organisation.
- 11 Under r 191 of the rules of the RTBU, the PTA Branch is to comprise all members of the union who are in the employ of the Public Transport Authority of Western Australia, or who are employed in, or in connection with the activities of the Public Transport Authority, including those persons employed in, or in connection with security, urban rail, customer relations, administrative technical and supervisory, TransWA, Delron and Goldfields buses and miscellaneous infrastructure.
- 12 Under s 71(2) of the Act, the Full Bench can make a declaration that the rules of the State organisation and its counterpart Federal body relating to the qualifications of persons for membership can be deemed to be the same if it forms the opinion the rules of each body are substantially the same. Section 71(3) of the Act, provides the Full Bench may form the opinion that the rules referred to in s 71(2) are substantially the same notwithstanding that a person who is eligible to be a member of the counterpart Federal body is ineligible to be a member of the State organisation.
- 13 After reviewing the rules of the State organisation and the counterpart Federal body the Full Bench was of the opinion it is clear that all members of the State organisation are also eligible to be members of the PTA Branch and it is immaterial that there are additional categories of members of the PTA Branch who are ineligible to be a member of the State organisation because of the operation of s 71(2) of the Act.
- 14 For these reasons, the Full Bench formed the opinion that the eligibility rules of the State organisation and the counterpart Federal body are substantially the same within the meaning of s 71(2) and s 71(3) of the Act.

(b) Are the offices that exist in the counterpart Federal body the same as the offices of the State organisation?

- 15 When determining whether the offices that exist in the PTA Branch (the counterpart Federal body) are the same as the offices of the State organisation, it is necessary for the Full Bench to consider the functions and powers of each office based on a consideration of the similarity or otherwise of the content of the rules: *Jones v Civil Service Association Inc* [2003] WASCA 321; (2003) 84 WAIG 4 [35] (Pullin J).
- 16 Pursuant to s 71(4) of the Act, the rules of a counterpart Federal body prescribing the offices which shall exist in the Branch are deemed to be the same as the rules of the State organisation prescribing the offices which shall exist in the State organisation if, for every office in the State organisation there is a corresponding office in the Branch.
- 17 In *Re Western Australian Prison Officers' Union of Workers* [2014] WAIRC 00006; (2014) 94 WAIG 62 the Full Bench considered how the task of assessing whether the functions and powers of each office in an organisation registered under the Act and its counterpart Federal body should be assessed. In its reasons for decision, the Full Bench observed:

It is apparent from the scheme of the provisions of s 71 when read with the definition of 'office' in s 7(1) of the Act together with the provisions in the Act that deal with the subject matter of elections of office holders of an organisation (s 56, s 56A, s 57) and the provisions of s 71A which authorises a State organisation to adopt the rules of its counterpart Federal body, that it is intended that once a declaration is made by a Full Bench and a certificate is issued by the Registrar of the Commission under s 71(5) of the Act, a State organisation and its counterpart Federal body can effectively operate as one organisation. If they wish to do so they can jointly manage the property and funds of both organisations by entering into a memorandum of agreement with the counterpart Federal body under s 71(6) and s 71(7) of the Act relating to the management and control of the funds or property, or both, of the State organisation. It is also clear that by authorising persons holding office in a counterpart Federal body to hold office in a State organisation is that effectively the two organisations can be operated for many purposes as if the organisations were as one.

Where there is no difference between the functions and powers of the offices of both organisations, clearly the offices can be deemed to be the same. However, if the powers and functions of the offices of the State organisation and its counterpart Federal body are not sufficiently similar, a decision or decisions of the management committees of the organisations could in some circumstances be challenged as invalid. If, for example, a State management committee and its counterpart Federal body committee of management sit at the same time with the same officers holding office in each committee and make decisions that collectively affect the members and/or property or funds of both organisations, the question is likely to arise if the issue is to be dealt with differently or by different persons holding offices under the rules, which rules do they have to comply with in making decisions that affect members of both organisations, if it is not possible to comply with the rules of both organisations.

Whilst Pullin J in *Jones* at [35] found that when determining whether the offices that exist in a counterpart Federal body are the same as the offices in the State organisation it is necessary for the Full Bench to consider the functions and powers of each office based on a consideration of the similarity or otherwise of the content of the rules, his Honour did not analyse how this task is to be conducted. Nor did his Honour formulate any principles upon which similarity of powers and functions of offices should be assessed. Section 71(4) of the Act deems offices of the State organisation to be the same as offices in the counterpart Federal body if there is a corresponding office for each State office in the counterpart Federal body. For an office to 'correspond', its functions and powers must be similar. To determine whether there is similarity, the functions and powers must have a degree of similarity that is sufficient to enable a finding to be made that offices can be deemed to be the same and thus correspond within the meaning of s 71(4) of the Act.

In *Re CFMEU* after comparing each office of the State organisation and its counterpart Federal body, the Full Bench was unable to be satisfied that there was sufficient similarity in the functions and powers of the some offices to be sufficiently similar, or the same or substantially the same [37]. In respect of other offices the Full Bench found there was sufficient similarity in the function and powers of offices to form the requisite opinion [44], [45], [46], [47] and [48].

In assessing similarity, it is also necessary to assess whether a conflict arises between the functions and powers of the duties of each office of the State organisation and each office that is not a 'corresponding' office in the counterpart Federal body but corresponds to another office. This issue arose in *Re CFMEU*. One of the reasons why the Full Bench in that matter found that the offices of the President of the State organisation and the Divisional Branch President could not be deemed to be the same is that the Divisional Branch President had some of the powers and functions of a treasurer which were in part similar to the powers of the Treasurer of the State organisation [38]. In these circumstances, a clear conflict arose as the functions and powers of one office could be performed by the holder of another office.

Where an office of a State organisation is said to correspond with an office of its counterpart Federal body, no conflict will usually arise if each office has the same or substantially similar

functions and power. Nor will any conflict usually arise if any of the offices of the counterpart Federal body have additional functions and powers that are not comparable to the powers and functions of any office in the State organisation. In such a case, no conflict arises if those other functions and powers are simply 'additional'. For example, some differing additional obligations arise out of the fact that the Act and the *Fair Work (Registered Organisations) Act* impose different regulatory obligations on the organisations [21] - [26].

- 18 In analysing the offices of each organisation, it is first necessary to identify the committee of management of each organisation. In this matter, pursuant to r 6 of the rules of the State organisation, the Executive of the union is the committee of management of the union. Rule 6.1 entrusts the Executive with the responsibility of the affairs of the union. The offices of the Executive, pursuant to r 6.2 of the rules of the State organisation, consist of the President, the Vice-President, the Secretary, the Assistant Secretary and one representative from each Branch.
- 19 Pursuant to r 192 of the rules of the RTBU, the PTA Branch is governed by the Branch Executive which is autonomous subject to the rules and the supervision of the National Executive and National Council. The effect of this rule is that the Branch Executive is the management committee of the Branch and the National Executive and the National Council are its governing bodies.
- 20 Pursuant to r 194 and r 198 of the rules of the RTBU, the PTA Branch Executive consists of the Branch Secretary, the Branch President, the Branch Vice-President and one representative from each Sub-Branch within the Branch. The PTA Branch is organised into Sub-Branches of security, urban rail, customer relations, TransWA, Delron and Goldfields buses and other such Sub-Branches as the Branch Executive may determine: r 193.
- 21 The powers and functions of the office of President of the State organisation are as follows:
 - (a) The President together jointly with the Secretary may determine when the Executive should meet (r 6.3).
 - (b) A decision to hold a supplementary Executive meeting is to be made by the President and the Secretary jointly (r 6.7.1).
 - (c) In addition to any other duties specified in the rules, the President is required to:
 - 15.1.1 Preside at all meetings of the Executive and all general meetings of members;
 - 15.1.2 Preserve order and decorum at such meetings and shall confirm the minutes thereof; and
 - 15.1.3 Ensure that the Rules and the policies of the Union are adhered to.
 - (d) The President is also empowered to interpret the rules of the State organisation but such interpretation is subject to review by the Executive (r 15.2).
 - (e) At all meetings of the union, at which he or she presides, the President shall have a deliberative vote only (r 15.3).
 - (f) All cheques are to be signed by the Secretary together with the President unless the Executive has authorised other members of the Executive or designated employees of the union to sign in place of the Secretary or President should either the Secretary or President not be readily available (r 25.1).
 - (g) The President is empowered to deal with any charges made against the Secretary (r 33.6).

- (h) The seal of the union is required to be affixed to any document by the President and the Secretary or other such member or members of the Executive as may be determined by the Executive (r 41.1). Other documents not required to be under seal shall be executed on behalf of the union by the Secretary or in the Secretary's absence by the President (r 41.2).
- 22 The powers and functions of each of the offices of the PTA Branch are set out in Part VI of the rules of the RTBU. When the powers and functions of the Branch President are examined it is apparent that the powers and functions of the Branch President, whilst not identical to the President of the State organisation, are sufficiently similar.
- 23 Pursuant to r 195 of the rules of the RTBU, the Branch President and the Branch Secretary jointly can determine when meetings of the Branch Executive are to be held. They can also determine jointly when to hold an urgent Branch Executive meeting. All disbursements from the Branch fund are to be by cheque signed by the Branch Secretary together with the Branch President or the Branch Vice-President: r 23(3). Also the seal of the Branch is to be affixed by the Branch President and the Branch Secretary: r 81(2). Branch documents not required to be under seal are to be executed by the Branch Secretary or in his or her absence by the Branch President: r 81(4). The remaining duties of the Branch President are set out in r 52 of the rules of the RTBU which provides as follows:
- (a) The Branch President is to preside at all meetings of the Branch Council and the Branch Executive. He or she is to preserve order and decorum at such meetings and confirm the minutes thereof and ensure the rules of the union and the PTA Branch are adhered to.
 - (b) The Branch President is empowered to give an interpretation of Part XVI of the rules of the RTBU (which establishes the PTA Branch). His or her decision shall be final and conclusive unless overruled by the Branch Council or the National Council.
 - (c) The Branch President has a deliberative but not a casting vote and is to be an ex officio member of all Branch governing bodies and committees.
- 24 In respect of the powers, functions and duties of the Vice-President of the State organisation, pursuant to r 16, the duties of the Vice-President are to assist the President in the conduct of the President's formal duties and in the absence of the President to deputise for the President. Thus, the powers, functions and duties of the Branch Vice-President are in effect the same pursuant to r 53 of the rules of the counterpart Federal body.
- 25 The Secretary of the State organisation has quite extensive powers and functions. Pursuant to r 17.1 the Secretary is the principal officer of the union. Apart from the joint duties to be performed with the President, the Secretary is required to perform numerous functions. These include forwarding notices of meeting of the Executive to each Executive member: r 6.4. All persons eligible for membership of the union are to make their application to the Secretary: r 9.1. Pursuant to r 9.5 of the rules of the State organisation the Secretary determines whether a person who applies for membership is either ineligible or of general bad character. If that is the case the Secretary is to refer the application for consideration to the Executive: r 9.5. All dues are to be paid to the Secretary: r 10.1 and all notices of resignation are to be addressed and delivered to the Secretary: r 13.
- 26 The main functions and duties of the Secretary are provided for in r 17. Rule 17 provides as follows:

- 17.1 The Secretary shall be the principal officer of the Union.
- 17.2 Between meetings of the Executive, the Secretary shall, subject to the Rules and the policies and decisions of the Executive, have primary responsibility for the conduct and management of the affairs of the Union and do all things necessary to be done by or on behalf of the Union.
- 17.3 Without limiting the generality of the foregoing the Secretary shall:
 - 17.3.1 Discharge all duties assigned to the Secretary by the Rules, and the Executive;
 - 17.3.2 Summon and attend all meetings of the Executive;
 - 17.3.3 Where the Secretary considers it necessary, consult with the President on any urgent matters which require a decision between meetings of the Executive;
 - 17.3.4 Arrange for all Union correspondence to receive attention;
 - 17.3.5 Issue press statements and provide media comment in relation to the Union and its affairs;
 - 17.3.6 Be responsible for the safe custody of the Union seal, documents, securities and accumulated funds
 - 17.3.7 Prepare, keep and/or file or cause to be prepared, kept and/or filed, all union documents and records required under the provisions of the IRA or any other relevant legislation;
 - 17.3.8 Receive all monies belonging to the Union and deposit the same in the Union's bank account as soon as practicable;
 - 17.3.9 Disburse all Union funds in accordance with the Rules;
 - 17.3.10 Ensure that union financial records are maintained and that annual accounts are prepared and audited;
 - 17.3.11 Monitor the accounts and other affairs of any Branch and for this purpose to have custody of and access to Branch documents and financial records;
 - 17.3.12 Prepare or cause to be prepared, all necessary documents for the Executive including the minutes of Executive meetings;
 - 17.3.13 Prepare or cause to be prepared, regular financial statements for the Executive;
 - 17.3.14 Co-ordinate the activities of a Branch;
 - 17.3.15 Control and supervise the Union office and its staff including the engagement and termination of such staff;
 - 17.3.16 Maintain the Register of Members;
 - 17.3.17 Maintain Register of Office Bearers;
 - 17.3.18 Be responsible to the Executive for the proper performance of the Secretary's duties.
- 27 The Secretary is also empowered to investigate disciplinary action against members pursuant to r 19.2 of the State organisation. Unless the Secretary decides the matter is without substance, the charge is to be referred to the Executive for determination. Under r 20.1 the register of members is to be kept by the Secretary. The Secretary is also responsible for purging the names and details of persons who have resigned or whose membership has ceased: r 21. Pursuant to r 22 the Secretary has the power to authorise action in the name of the union in a court of competent jurisdiction to recover any subscriptions, fees or levies due from any

member and shall take such action when instructed to do so by the Executive. All entrance fees, subscriptions, levies and other fees shall be paid to and collected by the Secretary: r 24.2. All loans, grants or donations under \$1,000 can only be made by the Secretary: r 26.2. Pursuant to r 29 the Secretary is to ensure adequate books and accounts are kept and the provisions of the Act are complied with in relation to maintenance, lodgement and distribution of financial records. The Secretary is also required to forward notices of general meetings to the members with an agenda: r 44.3.

28 The duties of the Branch Secretary of the PTA Branch are sufficiently similar to the duties of the Secretary of the State organisation. Under r 54 of the Federal rules the Branch Secretary is the principal officer and treasurer of the Branch. Between meetings of the Branch Council and the Branch Executive, he or she is required (subject to the rules of the Federal union and to the policies and decisions of the National Council, the National Executive, the Branch Council and the PTA Branch Executive), to have responsibility for the conduct and management of the affairs of the PTA Branch and to do all things necessary to be done by or on behalf of the PTA Branch. Without limiting the generality of those obligations, he or she is required to carry out the following duties under r 54. These are as follows:

- (i) discharge all duties assigned to him/her by these Rules, the Branch Council or the Branch Executive;
- (ii) summon and attend all meetings of the Branch Council and the Branch Executive;
- (iii) attend all meetings of the National Council and the National Executive;
- (iv) consult with the Branch President and the Assistant Branch Secretary (where such Office exists) and relevant Branch Divisional Secretaries on any urgent matters which require a decision between meetings of the Branch Executive;
- (v) attend to all Branch correspondence;
- (vi) authorise and release press statements and provide media comment on behalf of the Branch;
- (vii) be responsible for the safe custody of the Branch Seal (if any), and Branch documents, securities and accumulated funds;
- (viii) prepare, keep and/or file or cause to be prepared, kept and/or filed, all Branch documents and records required under the provisions of the Industrial Relations Act 1988 and the Regulations or any other relevant legislation;
- (ix) receive all monies belonging to the Branch Fund and deposit same in a Bank on behalf of the Branch as soon as practicable;
- (x) disburse all Branch funds in accordance with the Rules;
- (xi) ensure that Branch financial records are maintained and that annual accounts are prepared and audited;
- (xii) monitor the accounts and other affairs of the Branch Divisions, Sub-Divisions and Sub-Branches and for this purpose to have access, whenever requested, to relevant documents and financial records;
- (xiii) prepare or cause to be prepared, all necessary documents for the Branch Council and the Branch Executive including the minutes of meetings;
- (xiv) prepare or cause to be prepared, regular financial statements for the Branch Council and the Branch Executive;
- (xv) prepare or cause to be prepared a statement showing Branch membership by category and financial status as at December 31 of each year and a statement of Branch income and

expenditure and a balance sheet as at December 31 of each year and forward such statements to the National Secretary no later than March 31 of each year.

- (xvi) maintain Registers of Members of the Branch and Branch Office Bearers.
 - (xvii) co-ordinate the activities of Branch Divisions;
 - (xviii) control and supervise the Branch Office and its staff including the appointment and termination of such staff;
 - (xix) initiate legal, industrial or other proceedings on behalf of the Branch before any Court, Commission, Board or Tribunal;
 - (xx) be an ex-officio member of all Branch Governing Bodies and Committees;
 - (xxi) be responsible to the Branch Council and the Branch Executive to the proper performance of his/her duties;
- 29 Persons eligible for membership of the PTA Branch are to make an application to the Branch Secretary: r 10(1). If the Branch Secretary considers the applicant for membership to be ineligible, or is of general bad character, he or she is to refer the application to the Branch Executive: r 10(5). The Branch Secretary is to inform applicants of financial obligations arising from membership and the manner in which a member may resign from the union: r 10(6). All monies due as membership contributions (which include subscription rates, entrance fees and national levies) are to be paid to the Branch Secretary: r 11(1). The Branch Secretary is to keep the register of members, purge the register of the names and details of members who have resigned and transfer members between branches of the union: r 17, r 18 and r 20. The Branch Secretary is also empowered to recover any monies due from a member: r 19. The Branch Secretary is empowered to submit disputes or matters to the Fair Work Commission or other body: r 83(4). The Branch Secretary is also responsible for investigating charges against a member and, unless he or she determines that the matter is without substance, he or she is required to refer the charge to the Branch Executive for determination: r 16.
- 30 There are no powers or functions prescribed for the Branch representatives of the Executive of the State organisation or the Sub-Branch representatives of the Executive of the PTA Branch. However, this is not material as members of each executive they would be required (along with other members of each executive), to carry out the powers and functions of each executive.
- 31 Section 71(4) of the Act does not require that the offices that exist in the Branch are required to have a corresponding office in the State organisation. In this matter it was apparent to the members of the Full Bench that for each office of the State organisation there is a corresponding office in the PTA Branch.

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- 32 Section 62(2) of the Act prohibits the Registrar from registering any alterations to rules of an organisation that is a matter referred to in s 71(5) of the Act unless so authorised by the Full Bench. Pursuant to s 62(4) of the Act, the requirements of s 55(4) of the Act must be complied with before the Full Bench can approve a rule alteration application. Section 55(4) of the Act provides that the Full Bench shall refuse an application by the organisation unless it is satisfied that:
- (a) the application has been authorised in accordance with the rules of the organisation; and
 - (b) reasonable steps have been taken to adequately inform the members —

- (i) of the intention of the organisation to apply for registration; and
 - (ii) of the proposed rules of the organisation; and
 - (iii) that the members or any of them may object to the making of the application or to those rules or any of them by forwarding a written objection to the Registrar,
- and having regard to the structure of the organisation and any other relevant circumstance, the members have been afforded a reasonable opportunity to make such an objection; and
- (c) in relation to the members of the organisation —
 - (i) less than 5% have objected to the making of the application or to those rules or any of them, as the case may be; or
 - (ii) a majority of the members who voted in a ballot conducted in a manner approved by the Registrar has authorised or approved the making of the application and the proposed rules;
- and
- (d) in relation to the alteration of the rules of the organisation, those rules provide for reasonable notice of any proposed alteration and reasons therefor to be given to the members of the organisation and for reasonable opportunity for the members to object to any such proposal; and
 - (e) rules of the organisation relating to elections for office —
 - (i) provide that the election shall be by secret ballot; and
 - (ii) conform with the requirements of section 56(1),
- and are such as will ensure, as far as practicable, that no irregularity can occur in connection with the election.

33 The first matter about which the Full Bench must be satisfied is that the proposed rule alteration must be authorised by the organisation in accordance with its rules. The authority of the State organisation to alter its rules is found in r 45 of the rules of the State organisation. The power to alter the rules resides with the Executive of the union. Rule 45 provides as follows:

- 45.1 Subject to rule 45.3 of the Rules, the Executive shall have power to rescind, alter or amend these Rules in accordance with the procedure set out in rule 45.2 of the Rules.
- 45.2 Any rescission, alteration or amendment to these Rules shall be of no effect unless it complies with the following provisions:
 - 45.2.1 The Secretary shall forward all members of the Executive written notice of the proposed rescission, alteration or amendment of the Rules which sets out the proposal in full;
 - 45.2.2 Such notice shall specify the time and place of the Executive meeting which is to consider the proposal for the rescission, alteration or amendment of the Rules, which meeting shall be not less than one month after the date of the notice;
 - 45.2.3 The resolution meets the requirements of these Rules for carriage of a resolution at a meeting of the Executive.
- 45.3 Any rescission, alteration or amendment to any provisions of these Rules shall be of no effect unless such rescission, alteration or amendment of the Rules is resolved to by the Executive.

45.4 Notwithstanding the foregoing in rule 45 of the Rules, the Executive shall also comply with any requirements as to the alteration of the Rules required by section 62 IRA that include but are not necessarily limited to:

45.4.1 Notification to all members of the proposal for the alteration of the Rules and the reasons therefore along with a copy of the proposed alterations to the Rules;

45.4.2 Notification to all members that any member may object to the proposed alteration of the Rules by forwarding a written objection, within 21 days of notification, to the Registrar.

45.5 No alteration of the Rules shall be effective until the Registrar has given to the Union a certificate that the alteration to the Rules has been registered.

34 The facts supporting the State organisation's submission that it complied with the rules and the statutory requirements of the Act are supported by the following evidence:

- (a) On 23 August 2013, the Secretary of the State organisation, Paul Robinson, sent by email a notice of meeting of the Executive to all members of the Executive. The notice set out the date, time and place of the meeting and the proposed alterations to the rules.
- (b) On 24 September 2013, the Executive of the State organisation met. The minutes of the meeting of the Executive record that each member of the Executive had received a notice of meeting of the Executive dated 23 August 2013 with three attachments which set out the alterations and additions to the rules of the union and the reasons therefor. One of the alterations which was sought was the addition of a new Part VIII to provide for office bearers to be persons holding office in the PTA Branch.
- (c) It is clear from these minutes that each member of the Executive had received the agenda no less than seven days prior to the date of the meeting as required by r 6.4 of the rules of the State organisation. The minutes record that six members of the Executive were present and the following relevant resolutions were unanimously resolved:
 - (i) Subject to the compliance by the Executive of the union with r 45.4 of the rules and to the receipt of a certificate from the Registrar to the registration of the alterations of the rules of the union, to adopt the alterations and additions to the rules of the union set out in attachment B.
 - (ii) Notice be given to all members of the union of the proposal for the alterations and additions to the rules of the union by sending out to each member of the union copies of three attachments. (The first was a current copy of the rules (attachment A). The second was a copy of the rules showing the alterations (attachment B). The third attachment set out the reasons for the alterations and the reasons for seeking a s 71 certificate and the relevant history of the matter (attachment C)).
 - (iii) In the event that 5% or more of the members of the union object to the proposed alterations and additions by forwarding written objection to the Registrar the Secretary of the union was authorised to request the Registrar to arrange for the conduct of a ballot of the members of the union to determine if the majority of the members of the union who vote in the ballot authorise or approve the proposed alterations and additions to the rules of the union.

- (iv) The Secretary of the union was authorised to disseminate all necessary information to the members of the union, in the name of the Executive, relating to the proposal for the alterations and additions to the rules of the union by sending each of the members of the union the documents referred to in paragraph (ii).
 - (v) The Secretary of the union was directed to take steps to send via Australia Post to all members of the union at their residential address the documents in paragraph (ii). Also to publish that information on the union's RTBU website and, to send via email to all members of the union who have provided the union with an email address the documents and to post the documents on a notice board at each of the depots of the Public Transport Authority of Western Australia where members of the union work.
- (d) Pursuant to r 6.5 it is clear that a quorum for a meeting of the Executive was present as r 6.5 of the rules of the State organisation provides that a quorum for a meeting of the Executive shall be a majority of the members of the Executive entitled to attend the meeting.
- 35 In a statutory declaration made by Mr Robinson on 27 September 2013, he set out the steps he took to comply with the resolutions made by the Executive on 24 September 2013. These were as follows:
- (a) On 25 September 2013, he sent by mail to 595 members of the union copies of Attachments A, B and C together with a memorandum that advised each member that any of them could object to the proposed alterations and additions to the rules of the State organisation by forwarding a written objection to the Registrar within 21 days of the date of the memorandum.
 - (b) There were two people on the membership list that were not sent by post copies of those documents. One was himself and the other was a Mr Tan for whom the State organisation does not have a residential address.
 - (c) On 25 September 2013, he caused a webpage to be created and put up on the website of the State organisation headed 'WA Rail Tram and Bus Union', together with links to attachments A, B and C.
 - (d) Over the period 25 September 2013 to 27 September 2013, he put in a prominent place in a number of places and crib rooms of the Public Transport Authority being the place of employment of the members of the State organisation attachments A, B and C.
 - (e) On 25 September 2013, Mr Kivraj Singh, the industrial officer of the State organisation, sent an email attaching attachments A, B and C to each member of the State organisation who had provided the State organisation with a non-Public Transport Authority email address.
- 36 When regard is had to this evidence it was clear to the members of the Full Bench that r 45 of the rules of the State organisation had been complied with. In particular:
- (a) The Secretary had forwarded all members of the Executive written notice which set out the proposed alteration or amendment of the rules.

- (b) The notice to the Executive specified the time and place of the Executive meeting which was to consider the proposal and the meeting was not less than one month after the date of the notice.
- (c) The resolution to alter the rules met the requirements of r 6.5 for carriage of a resolution at a meeting of the Executive.
- (d) Notification was given to all members of the proposal and the reasons therefor, along with a copy of the proposed alterations to the rules.
- (e) Notification was also given to all members that any member could object to the proposed alteration of the rules by forwarding written objection, within 21 days of notification, to the Registrar.

37 The members of the Full Bench were also satisfied that members of the State organisation had been afforded a reasonable opportunity to make an objection to the making of the alteration to the rules and we noted that no member of the State organisation had objected to the making of this application or to the variation of the rules.

38 For these reasons, the Full Bench was satisfied that s 55(4)(b), s 55(4)(c) and s 55(4)(d) of the Act had been complied with. Section 55(4)(e) and s 56(1) of the Act provide for procedural rules that are to be provided for the rules of all organisations in respect of elections by secret ballot. The State organisation's current rules provide for the procedures as required by these provisions of the Act and the alterations sought in this application do not relate to those matters.

APPLICATION FOR APPROVAL OF AN AGREEMENT PURSUANT TO SECTION 71(7)

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

FULL BENCH

CITATION : 2017 WAIRC 00179

CORAM : THE HONOURABLE J H SMITH, ACTING PRESIDENT
ACTING SENIOR COMMISSIONER S J KENNER
COMMISSIONER D J MATTHEWS

HEARD : THURSDAY, 9 MARCH 2017

DELIVERED : MONDAY, 27 MARCH 2017

FILE NO. : FBM 5 OF 2016

BETWEEN : THE AUSTRALIAN RAIL, TRAM AND BUS INDUSTRY
UNION OF EMPLOYEES, WEST AUSTRALIAN BRANCH
Applicant

CatchWords : Industrial Law (WA) - Application pursuant to s 71(7) of the *Industrial Relations Act 1979* (WA) for approval of financial agreement between State organisation and Federal body - Requirements of s 71 considered - Agreement approved

Legislation : *Industrial Relations Act 1979* (WA) s 71, s 71(6), s 71(7), s 71(8)

Result : Order made

Representation:

Counsel:

Applicant : Mr C Fogliani

Solicitors:

Applicant : W.G. McNally Jones Staff Lawyers

Case(s) referred to in reasons:

Finance Facilities Pty Ltd v Federal Commissioner of Taxation [1971] HCA 12; (1971) 127 CLR 106

Leach v The Queen [2007] HCA 3; (2007) 230 CLR 1

Mitchell v The Queen [1996] HCA 45; (1996) 184 CLR 333

Re The Western Australian Police Union of Workers [2007] WAIRC 01208; (2007) 88 WAIG 52

Reasons for Decision

THE FULL BENCH:

Introduction

- 1 This application was filed on 19 December 2016 and is made pursuant to s 71(7) of the *Industrial Relations Act 1979* (WA) (the Act). The application seeks the registration of an agreement between the State organisation and the Australian Rail, Tram and Bus Industry Union (the Federal body). The Federal body has a Western Australian PTA Branch which is the counterpart Federal body of the State organisation (the PTA Branch).
- 2 The PTA Branch was created by a rule change to the Federal body on 23 November 2012 ([2012] FWAD 8633). Prior the creation of the PTA Branch, the Federal body had one Western Australian branch. Since the creation of the PTA Branch, the Federal body has two State branches.
- 3 The State organisation seeks an order that the Full Bench approve the agreement. If approved the agreement will, pursuant to s 71(8) of the Act, be registered as an alteration to the rules of the State organisation.

Background

- 4 On 12 May 2014, the Full Bench, pursuant to s 71 of the Act, made declarations that ([2014] WAIRC 00399; (2014) 94 WAIG 696):
 - (1) (a) The Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch is the counterpart Federal body (the counterpart Federal body) of The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch (the State Organisation).
 - (b) The rules of the State Organisation and its counterpart Federal body relating to the qualification of persons for membership are deemed to be the same.
 - (c) The rules of the counterpart Federal body prescribing the offices that exist in the counterpart Federal body are deemed to be the same as the offices that exist in the State Organisation.
- 5 On 17 December 2014, the Registrar of the Commission issued the State organisation with a certificate which declared:
 - (1) that the provisions of the *Industrial Relations Act 1979*, relating to elections for office within an organisation do not, from 25 November 2014, apply in relation to offices in The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch; and
 - (2) that from 25 November 2014, the persons holding office in The Australian Rail, Tram and Bus Industry Union, West Australian PTA Branch, an organisation registered under the provisions of the *Fair Work (Registered Organisations) Act 2009* shall for all purposes, be the officers of The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch.
- 6 The effect of the certificate is that it enables the offices of the State organisation and the PTA Branch to be held by the same persons without requiring separate elections.
- 7 On 21 May 2015, the State organisation and the Federal body entered into a deed of agreement in accordance with s 71(6) of the Act. Section 71(6) contemplates that an agreement made in

accordance with the requirements of s 71, if approved by the Full Bench, will enable a State organisation and a Federal body to make binding administrative arrangements to manage and control the funds and property of the State organisation.

8 Section 71(6), s 71(7) and s 71(8) of the Act provide:

(6) A State organisation to which a certificate issued under this section applies may, notwithstanding any provision in its rules to the contrary, make an agreement with the organisation of which the State organisation's counterpart Federal body is the Branch, relating to the management and control of the funds or property, or both, of the State organisation.

(7) Where a memorandum of an agreement referred to in subsection (6) is —

- (a) sealed with the respective seals of the State organisation and the other organisation concerned; and
- (b) signed on behalf of the State organisation and the other organisation by the persons authorised under their respective rules to execute such an instrument; and
- (c) lodged with the Registrar,

the Full Bench may, if it is satisfied that the terms of the agreement are not detrimental to the interests of persons who are eligible to be members of the State organisation and of its counterpart Federal body and will not prevent or hinder the State organisation from satisfying any debt or obligation howsoever arising, approve the agreement.

(8) Where the Full Bench approves an agreement under subsection (7) the Registrar shall —

- (a) register the memorandum as an alteration to the rules of the State organisation; and
- (b) amend, where necessary, the certificate issued to the State organisation under subsection (5) by declaring that the State organisation is, from the date of registration of the memorandum, exempted from compliance with such provisions of this Act and to such an extent as the Full Bench may, having regard to the terms of the memorandum, direct; and
- (c) notify the State organisation in writing of the matters referred to in paragraphs (a) and (b).

9 The agreement is made as a deed and is executed by the common seal of both the State organisation and the Federal body. The seal of the State organisation was affixed by its authorised officers in accordance with r 41.1 of its rules by the signature of its secretary, Paul Robinson, and the president, Craig Dearth. The Federal body executed the deed by affixing its seal by its authorised officers in accordance with r 81 of its rules by the signature of its national secretary, Bob Nanva, and its national president, Phil Altieri.

10 Although the agreement is dated 21 May 2015, Mr Paul Robinson, the secretary of the State organisation and branch secretary of the PTA Branch, gave evidence before the Full Bench that amendments were agreed to in 2016 by the parties which led to the parties re-executing the agreement. Subsequent to the hearing before the Full Bench on 9 March 2017, a supplementary affidavit affirmed by Mr Robinson on 13 March 2017 was filed. In his supplementary affidavit Mr Robinson states that:

- (a) he sent a final copy of the agreement to the Federal body by email on 8 December 2016;
- (b) sometime during the week ending 16 December 2016:

- (i) he received a copy of the agreement signed by Mr Nanva and Mr Altieri; and
- (ii) after receiving the document he stamped the seal of the State organisation on page 12 of the agreement and on the same day both he and Craig Dearth signed the agreement.

The agreement

11 The recitals and the agreed terms are as follows:

- A. The RTBU is an organisation registered pursuant to the FW(RO)A.
- B. The RTBU is divided into branches and in Western Australia has two branches one of which is the PTA Branch the other being the RTBU WA Branch.
- C. All the members of the RTBU employed in Western Australia are in accordance with the RTBU's rules assigned to either the PTA Branch or the RTBU WA Branch.
- D. ARTBIU is an organization registered in the state of Western Australia pursuant to the *Industrial Relations Act WA 1979* (IRA).
- E. The IRA provides that an organization registered pursuant to the FW(RO)A (in this recital ('the federal body')) is a counterpart federal body of an organization registered pursuant to the IRA ('registered organization') if members of the registered organization are:
 - 1. Members, or eligible to be members, of the federal body;
 - 2. Engaged in the same work, in aspects of the same work, or in similar work as members of the federal body;
 - 3. Employed in the same or similar work by employers engaged in the same industry as members of the federal body; or
 - 4. Engaged in work or in industries for which there is a community of interest between the federal body and the registered organization.
- F. All members of the ARTBIU are eligible to be members of the RTBU PTA Branch.
- G. All members of the ARTBIU are employed in the same or similar work by employers engaged in the same industry as that to which eligible members of the PTA Branch are employed.
- H. All the members of the ARTBIU are engaged in the same work or in industries for which there is a community of interest between the ARTBIU and the RTBU PTA Branch.
- I. The RTBU is the counterpart federal body of the ARTBIU pursuant to the section 71(1) of the IRA.
- J. The RTBU is the federal counterpart of the ARTBIU pursuant to section 9A of the FW(RO)A.
- K. The objects of the RTBU are also substantially those of the ARTBIU.
- L. An unwritten administrative agreement exists, and has existed for many years, between the RTBU and the ARTBIU that is directed at reducing demarcation, reducing costs and enhancing efficiency in attaining the objects of the RTBU, and the ARTBIU.
- M. The parties wish to set out in writing terms of the unwritten administrative arrangement that has existed for many years between the RTBU and the ARTBIU in this Deed and to have this Deed approved by the Full Bench pursuant to section 71(7) of the IRA and subsequently have the Deed registered as an alteration to the rules of the ARTBIU by the Registrar.
- N. The parties seeks by that this Deed to, amongst other things:

1. Reduce administrative costs to members assigned to the RTBU WA and PTA branches;
 2. Reduce the replication of services to its members assigned to the RTBU WA and PTA branches;
 3. Reduce the confusion that arises in relation to the two entities providing similar services to dual members; and
 4. Enhance the efficiency and effectiveness of representation of dual members.
- O. The RTBU must employ the industrial staff required to ensure that the obligations owed by the RTBU to members of the PTA Branch are met.
- P. The RTBU intends to be bound by, and as a consequence the PTA Branch will be bound by, the terms of this Deed.
- Q. The ARTBIU intends to be bound by the terms of this Deed.
-

The parties agree as follows:

1. Definitions

In this Deed the following words and phrases have the meanings assigned:

- (a) **'ARTBIU'** means The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch
- (b) **'ARTBIU Branch Services'** means the facilities and services provided to the ARTBIU in accordance with clause 4;
- (c) **'ARTBIU Rules'** means the registered rules of the ARTBIU;
- (d) **'Commencement Date'** means the date of the execution by the last party in time to execute this Deed;
- (e) **'Commission'** means the body continued and constituted under the IRA under the name of *The Western Australian Industrial Relations Commission*;
- (f) **'Deed'** means this Deed inclusive of the Recitals;
- (g) **'dual member'** means a person who is a member of both the RTBU and the ARTBIU;
- (h) **'Full Bench'** means the Commission constituted as provided by section 15(1) IRA;
- (i) **'FW(RO)A'** means the *FairWork (Registered Organisations) Act 2009*;
- (j) **'IRA'** means the *Industrial Relations Act WA 1979*;
- (k) **'PTA Branch'** means the RTBU, West Australian PTA Branch as constituted by Part XVI of the RTBU Rules;
- (l) **'Recitals'** means the recitals at the beginning of this Deed;
- (m) **'Registrar'** means the chief executive officer of the *Department of the Registrar Western Australian Industrial Relations Commission* as provided for in the IRA;
- (n) **'RTBU'** means the Australian Rail, Tram and Bus Industry Union;
- (o) **'RTBU Rules'** means the registered rules of the RTBU; and
- (p) **'RTBU WA Branch'** means the RTBU, Western Australian Branch constituted by Part XV of the RTBU Rules;

- (q) **'s. 71 Certificate'** means a certificate issued pursuant to section 71(5) of the IRA by the Western Australian Industrial Relations Commission as a result of application FBM 6 of 2013.

2. Interpretation

In this Deed, unless the context indicates a contrary intention;

- (a) The singular includes the plural and the plural includes the singular;
- (b) A reference to a statute includes any:
 - (i) Statute amending, consolidating or replacing that statute;
 - (ii) Regulation made under the statute as that regulation as is in force from time to time;
- (c) Any expression, term, phrase or word used is to be interpreted consistently;
- (d) Headings will not be taken into account in interpretation;
- (e) A reference to a 'clause' is, unless the context clearly indicates otherwise, a reference to a clause of this Deed;
- (f) A reference to a 'sub-clause' means, unless the context clearly indicates otherwise, a sub-clause of the clause in which the reference to the sub-clause is made;
- (g) A reference to a 'part' means, unless the context clearly indicates otherwise, a part of the sub-clause in which the reference to the part is made;
- (h) A reference to a 'Recital' is a reference to as recital of this Deed;
- (i) A reference to a 'Schedule' is a reference to a schedule to this Deed, and the schedule is to be read as a part of this Deed and consistently with it;
- (j) A reference to a 'day' in this Deed is a reference to the days Monday to Friday both inclusive, public holidays in Western Australia and New South Wales excepted;
- (k) A reference to a 'month' is a reference to a calendar month;
- (l) A reference to 'business hours' in this Deed is a reference to the hours of 9.00am to 5.00pm Australian Western Standard Time;
- (m) Where any period of time, dating from a given day, act or event is prescribed or allowed for any purpose, the period, unless the contrary intention appears, is calculated exclusive of such day or the day of such act or event;
- (n) Where the last day of any period prescribed or allowed in or by this Deed for the doing of any thing falls on a Saturday or Sunday or on a day which is a public holiday in the place in the place in which the thing is to be or may be done, the thing may be done on the first following day which is not a Saturday, Sunday or a public holiday in that place.

3. Forbearance by the ARTBIU

The ARTBIU agrees to not collect entrance fees or subscriptions from a dual member for the period that:

- (a) The ARTBIU Rules provide that a member of the ARTBIU will be financial if the member is a financial member of the RTBU assigned to the PTA Branch; or

- (b) The dual member maintains their financial membership of the RTBU and is assigned to the PTA Branch; or
 - (c) This Deed is in effect.
-

4. Facilities and Services to ARTBIU

- (a) The RTBU, through its PTA Branch, agrees that the RTBU will provide to the ARTBIU the following services:
 - (i) Provision of industrial services;
 - (ii) Access to legal advice;
 - (iii) Provision of WorkCover services;
 - (iv) Provision of recruiting services for new dual members;
 - (v) Provision of all services relating to the ARTBIU's compliance with the IRA and/or any other relevant Western Australian legislation;
 - (vi) Provision of financial services;
 - (vii) Provision of administrative services;
 - (viii) Provision of administrative services relating to dual members inclusive of the provision of registrars, payment systems and other systems;
 - (ix) Provision of accounting and auditing services;
 - (x) Provision of letterhead, membership forms, and any other printed or written material that the ARTBIU reasonably require to be produced;
 - (xi) Provision of journals;
 - (xii) Provision of notices to members of the ARTBIU;
 - (xiii) Provision of equipment, including computing equipment, as may be necessary for the officers and/or officials and/or agents of the ARTBIU to perform their respective obligations;
 - (xiv) Provision of the necessary staff, plant equipment, vehicles and other resources to ensure that the ARTBIU meets its obligations to the members assigned to it and meet its obligations as an organisation, registered pursuant to the IRA
 - (b) The RTBU will, to the extent only of the PTA Branch, meet the financial liabilities (if any) of the ARTBIU, properly and legally incurred by the ARTBIU in discharging its obligations pursuant to its rules and/or this Deed.
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5. Membership

- (a) The Membership Application Form, to be used by the PTA Branch and the ARTBIU, will be a joint Membership Application Form that provides for persons who apply to join PTA Branch, also apply to join the ARTBIU and vice versa.
- (b) The RTBU will promptly inform the ARTBIU of any resignations it receives from persons who were members of the RTBU and assigned to the PTA Branch.
- (c) The ARTBIU will promptly inform the RTBU PTA Branch of any resignations it receives from persons who were members of the ARTBIU.

6. Joint Expenditure and Resourcing

- (a) The ARTBIU acknowledges, subject to clause 3, that the RTBU PTA Branch and WA Branch may jointly employ employees and jointly utilise other resources necessary to ensure that the ARTBIU's obligations to the members of the ARTBIU, pursuant to the rules of the ARTBIU, are discharged.
- (b) The parties agree that the Secretary of the RTBU PTA Branch and WA Branch will consult, as necessary, to ensure that the resources of the parties are effectively utilised, and that inconsistent instructions are not issued with respect to the use of employees and other resources, in delivering services and facilities in accordance with clause 4.
- (c) The RTBU PTA and WA Branches undertake, consistently for the undertakings set out in clause 4, that it is jointly responsible for the payment of general resources (including, but not limited to office space, utilities and other outgoings) and the payment of joint employees including all wages, all accrued entitlements and any other associated administrative expense.
- (d) The parties agree that the RTBU PTA and WA Branches will share costs for the totality of work performed and the parties each acknowledge that: whilst costs incurred for the purposes of the PTA Branch or WA Branch may vary on any given day, the costs incurred will over time balance out as between the RTBU WA Branch and PTA Branch in respect of its undertaking in clause 4.
- (e) The parties acknowledge that the RTBU PTA and WA Branches shall complete annual returns (including numbers of members) in accordance with obligations under the Fair Work (Registered Organisations) Act 2009
- (f) The parties agree that for the following year all costs expended by the RTBU in accordance with this deed shall be distributed between the WA and PTA Branches in proportion to the number of members in each branch reported in sub-clause (f) above.
- (g) For the purposes of this clause joint employees do not include:
 - (i) Elected full time officers of the RTBU PTA Branch and/or ARTBIU;
 - and
 - (ii) Elected full time officers of the RTBU WA Branch
 insofar as the RTBU or the ARTBIU are responsible, in accordance with their rules, to make payment to those officers for performing their office or position as the case may be. Payments for these full-time elected officials remain the responsibility of the individual branch.

7. Further Services

The RTBU, in relation to the PTA Branch, and the ARTBIU agree that the RTBU and the ARTBIU may, in writing, agree to the provision of further or additional facilities or services, other than those provided in clause 4.

8. Geographical Provision

The RTBU, in respect of its PTA Branch, agrees to provide the ARTBIU Branch Services throughout Western Australia.

9. Commencement

This Deed commences on the commencement date and will continue until terminated.

10. Review

The ARTBIU and RTBU, in respect of the PTA Branch, agree that the provision of the ARTBIU Branch Services, or of any particular facility or service, will be reviewed, as either of the parties may request, by the giving of twenty one (21) days' written notice to the other party.

11. Dispute Resolution

In the event of a dispute about matters arising under this Deed, the procedure to resolve the dispute will be as follows:

- (a) The RTBU National Secretary and the ARTBIU Secretary will meet and confer on the matter;
 - (b) If the dispute cannot be resolved by the RTBU National Secretary and the ARTBIU Secretary pursuant to sub-clause (a), it may be referred to a mutually acceptable person for resolution by agreement;
 - (c) In the absence of agreement as to a mutually acceptable person, the person will be nominated by the National Executive of the RTBU;
 - (d) If a dispute is referred pursuant to sub-clause (b), the person to whom the dispute is referred may take any or all of the following actions as they consider appropriate to resolve the dispute:
 - (i) Convene a conciliation of the parties to the dispute;
 - (ii) Conciliate or make recommendations about particular aspects of a matter about which the parties are unable to reach agreement; and
 - (iii) Where a dispute cannot be resolved (including by conciliation) and both parties so request, determine the dispute.
 - (e) Subject to the rights of either party to enforce any aspect of this Deed in accordance with clause 19 of this Deed, the parties will treat any determination made under sub-clause (d) as binding upon them.
-

12. Termination

The operative provisions of this Deed will remain in full force and effect only during such time as the s. 71 Certificate remains valid and effective and will terminate simultaneously with the s. 71 Certificate becoming or being held to be invalid and/or ineffective.

13. Relationship of the Parties

- (a) Neither the RTBU, inclusive of its PTA Branch, nor the ARTBIU has any power, right or authority to bind the other, or to assume or create any obligation or responsibility, express or implied, on behalf of the other or in the other's name.

- (b) Nothing stated in this Deed will be construed as constituting the RTBU, inclusive of its PTA Branch, and the ARTBIU as partners, or as creating the relationship of employer and employee or principal and agent between the parties.
-

14. Ratification of Prior Dealings & Release from Obligations

- (a) The parties hereby agree that in respect of their conduct in relation to their prior dealings with each other prior to the execution of this Deed they hereby ratify all acts done during the course of their dealings.
 - (b) Further in consideration of the entering into this deed they each release the other from all claims for repayment of any monies paid and/or received the one from the other including all claims in respect of any related interest, costs or expenses.
-

15. Return of ARTBIU's Documents

- (a) Upon the termination of this Deed, the RTBU will deliver to the ARTBIU all of the ARTBIU's records, books and other documentation, whether in printed or in electronic form, whether prepared by the RTBU, its PTA Branch, or another person, that is in the RTBU's possession or control.
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16. Return of RTBU's Documents

- (a) Upon the termination of this Deed, the ARTBIU will deliver to the RTBU all of the RTBU's records, books and other documentation, whether in printed or in electronic form, whether prepared by the ARTBIU, or another person, that is in the ARTBIU's possession or control.
-

17. Property and Assets

- (a) The parties agree that the preservation of assets must be safeguarded in the interests of the entire RTBU and ARTBIU membership and that no assets (including real property) shall be disposed of or otherwise dealt with without the consent of the RTBU National Executive and ARTBIU Executive.
-

18. Notices

- (a) Any notice, demand, consent or other communication (in this clause, a 'Notice') unless otherwise expressly provided for in this Deed:
 - (i) Must be in writing and signed by the sender or a person duly authorized by the sender;
 - (ii) Given on a day as that expression is defined in this Deed;
 - (iii) Must be addressed and delivered to the intended recipient at the address or fax number set out below or the address or fax number last notified by the intended recipient to the sender after the date of this Deed:
 - A. To the ARTBIU:

The Branch Secretary
2/10 Nash Street
Perth WA 6000

Facsimile No: 08 92256733

B. To the RTBU:

The National Secretary
Suite 201
Trades Hall
4-10 Goulburn Street
SYDNEY NSW 2000

Facsimile No: 02 9319 2096

- (b) A Notice will be taken to be duly given or made when delivered, received or left at the fax number or address provided for in sub-clause (a), provided that if delivery or receipt occurs later than 4pm (local time) at the place of delivery, it will be taken to have been given or made at the commencement of business on the next day.

19. Governing law

This Deed will be governed and construed in accordance with the laws of the Commonwealth and the State of Western Australia and the parties will submit to the non-exclusive jurisdiction of the courts of that State in respect of any dispute of whatsoever nature arising under this Deed or its implementation or enforcement.

20. Severance

If the form, or any clause, sub-clause, paragraph, sub-paragraph or part thereof, of this Deed is held or found to be void, invalid, unenforceable, it will be deemed to be severed to the extent that it is void or voidable, invalidity or unenforceability, but the remainder of this Deed will remain in full force and effect.

21. Counterpart

- (a) This Deed may be executed in any number of counterparts and all counterparts, taken together will form one agreement.
- (b) A party may execute this Deed by executing any counterpart thereof.

The statutory requirements

¹² The requirements of s 71(6) of the Act have been met in that:

- (a) the application is made by a State organisation;
- (b) a certificate has been issued to the State organisation under s 71;
- (c) the State organisation has made an agreement with the Federal body as the organisation of which the State organisation's counterpart Federal body is the PTA Branch; and

- (d) the agreement relates to the management and control of the funds and property of the State organisation.
- 13 Pursuant to s 71(7) of the Act, there are four conditions that must be satisfied before the Full Bench may approve the agreement. The first three of these have clearly been met. They are:
- (a) the agreement is sealed with the respective seals of the State organisation and the Federal body;
 - (b) the agreement is signed on behalf of the State organisation and the Federal body by the persons authorised under their respective rules to execute such an instrument; and
 - (c) the agreement has been lodged with the Registrar.
- 14 The fourth condition in s 71(7) is that the Full Bench is to be satisfied that the terms of the agreement are not detrimental to the interests of persons who are eligible to be members of the State organisation and of its counterpart Federal body and will not prevent or hinder the State organisation from satisfying any debt or obligation howsoever arising. In *Re The Western Australian Police Union of Workers* [2007] WAIRC 01208; (2007) 88 WAIG 52, Ritter AP, with whom Scott and Harrison CC agreed, described the power in s 71(7) to approve an agreement as discretionary [16]. However, the Full Bench does not necessarily agree that the power contained in s 71(7) of the Act is discretionary.
- 15 Whilst s 71(7) confers a power on the Full Bench that could be regarded as discretionary by the use of the words 'may ... approve the agreement' the power conferred is not at large. Section 71(7) confers a power to be exercised upon the Full Bench being satisfied of the preconditions set out in s 71(6) and s 71(7). It has no power to review or assess the terms of the agreement by having regard to any other matters, other than the matters specified in s 71(6) and s 71(7). In the Full Bench's opinion, it is strongly arguable that the power conferred by s 71(7) is an obligatory provision of the same class as the provision considered in *Finance Facilities Pty Ltd v Federal Commissioner of Taxation* [1971] HCA 12; (1971) 127 CLR 106. In that matter, Windeyer J found that the power conferred on the Commissioner of Taxation which provided the Commissioner 'may allow' a rebate of taxation if satisfied of particular prescribed circumstances was not discretionary. In making this finding, Windeyer J observed the construction of the power (134 - 135):
- [D]oes not depend on the abstract meaning of the word 'may' but of whether the particular context of words and circumstance make it not only an empowering word but indicate circumstances in which the power is to be exercised - so that in those events the 'may' becomes a 'must'. Illustrative cases go back to 1663: *R. v. Barlow* ((1663) Carth, 293 [90 E.R. 773]; 2 Salk. 609 [91 E.R. 516]). Today it is enough to cite *Julius v. Bishop of Oxford* ((1880) 5 App. Cas. 214); and add in this Court *Ward v. Williams* ((1955) 92 C.L.R. 496, at pp. 505-506). But I select one other reference out of a multitude: *Macdougall v. Paterson* ((1851) 11 C.B. 755 [138 E.R. 672]). There Jervis C.J. said in the course of the argument ((1851) 11 C.B., at p. 766 [138 E.R., at p. 677]) 'The word "may" is merely used to confer the authority: and the authority *must* be exercised, if the circumstances are such as to call for its exercise'. And, giving judgment, he said ((1851) 11 C.B., at p. 773 [138 E.R., at p. 679]):
- 'We are of opinion that the word "may" is not used to give a discretion, but to confer a power upon the court and judges; and that the exercise of such power depends, not upon the discretion of the court or judge, but upon the proof of the particular case out of which such power arises.'
- 16 Justice Windeyer's observations were applied by the High Court in *Mitchell v The Queen* [1996] HCA 45; (1996) 184 CLR 333 and *Leach v The Queen* [2007] HCA 3; (2007)

230 CLR 1 [38]. However, as this issue was not raised in these proceedings, it is not appropriate to determine this issue in the absence of argument.

- 17 In any event, the Full Bench is of the opinion that, if the Full Bench is satisfied that the requirements of s 71(6) and s 71(7) are met and that the terms of the agreement are not detrimental in the manner prescribed in s 71(7) and the terms of the agreement will not prevent or hinder the State organisation from satisfying any debt or obligation howsoever arising, the Full Bench should approve the agreement.

The effect of terms of the agreement

- 18 Prior to the hearing of this application, on 6 February 2017 a letter was sent to the State organisation by the Associate to Smith AP. The letter stated as follows:

Pursuant to s 71(7) of the *Industrial Relations Act 1979* (WA) the Full Bench is required to be satisfied that the terms of the agreement are not detrimental to the interests of persons who are eligible to be members of the State organisation and of its counterpart Federal body.

The members of the Full Bench have reviewed your application and advise that, in the absence of any explanation in the documents attached to the application or definition of 'prior dealings' in the deed, at the hearing of your application, it wishes to receive oral or written evidence on affidavit and submissions in respect of the acts carried out in prior dealings by both parties that it is contemplated are to be ratified by operation of cl 14 of the deed.

- 19 In response to the letter from the Commission, written submissions were filed on behalf of the State organisation on 3 March 2017 containing a table setting out the effect of the provisions of the agreement as follows:

Clause	Effect
1	Clause 1 is the definitions clause. Clause 1 is a neutral consideration in this matter.
2	Clause 2 is the interpretation clause. Clause 2 is a neutral consideration in this matter.
3	Clause 3 removes the technical requirement of a person who is a dual member of the RTBU and the Federal Union to have to pay two sets of union dues. This is an obvious benefit to dual members. The organisations have never collected two sets of subscription fees from dual members. To that extent, the clause simply enshrines a longstanding custom and practice. Clause 3 will not hinder the RTBU's ability to cover its debts and obligations. This is because the PTA Branch of the Federal Union agrees to cover the RTBU's financial liabilities in clause 4.
4	Clause 4 does two things. First, it places an obligation on the PTA Branch of the Federal Union to provide a range of services to the RTBU. That range of services is listed in clause 4. Second, it places an obligation on the PTA Branch of the Federal Union to cover the financial liabilities of the RTBU. Significantly, clause 4 will assist the RTBU in covering its debts and obligations.
5	Clause 5 provides for a single membership form to join both the RTBU and the PTA Branch of the Federal Union. Clause 5 is a neutral consideration in this matter.

Clause	Effect
6	The RTBU, the PTA Branch of the Federal Union and the WA Branch of the Federal Union share a bundle of common resources. Those shared resources include employees, offices, branding, telephones, printers and rental income. Clause 6 is designed to regulate the relationship between the PTA Branch and the WA Branch of the Federal Union. It benefits the members of the RTBU and the PTA Branch of the Federal Union as it ensures that common resources will be shared fairly. The consultative nature of the clause also promotes industrial harmony between the PTA Branch and the WA Branch. Clause 6 assists the RTBU in meeting its debts and obligations by placing an obligation on the WA Branch to share the common costs incurred by the WA Branch, PTA Branch and the RTBU.
7	Clause 7 enables the RTBU and the PTA Branch to expand on the services contained in clause 4 by agreement in writing. Clause 7 is a neutral consideration in this matter.
8	Clause 8 places an obligation on the PTA Branch to provide the services listed in clause 4 to the RTBU throughout Western Australia. Clause 8 is a neutral consideration in this matter.
9	Clause 9 sets out when the memorandum will come into effect. It is a neutral consideration in this matter.
10	Clause 10 enables the RTBU and the Federal Union to review the services listed in clause 4. This clause is a neutral consideration.
11	Clause 11 creates a mechanism to facilitate the resolution of disputes between the RTBU and the Federal Union about the application of the memorandum. This clause provides a benefit to the members of the RTBU and the PTA Branch in that it ensures that disputes between the RTBU and the Federal Union are able to be resolved amicably.
12	Clause 12 is a termination provision. It is a neutral consideration.
13	Clause 13 sets out that the RTBU and the Federal Union are unable to act as agents of each other. Clause 13 is a neutral provision.
14	Clause 14 waives any debts that the RTBU and the Federal Union may owe each other from their prior dealings since 1999. The explanation about why this provision exists is set out in the affidavit of Mr Paul Robinson dated 3 March 2017.
15-16	Clauses 15 and 16 require the RTBU and the Federal Union to return property to each other in the event that the memorandum is terminated. It is a neutral consideration in this matter.
17	Clause 17 safeguards the assets of the RTBU and the Federal Union by ensuring that neither party can dispose of an asset without the consent of both parties. This is a neutral consideration in this matter.
18-21	Clauses 18, 19, 20 and 21 are procedural provisions. They are neutral considerations in this matter.

Also in response to the letter from the Commission, an affidavit affirmed on 3 March 2017 by Mr Robinson was filed on 3 March 2017. Mr Robinson's affidavit sets out the reasons why cl 14 was included in the agreement by the parties and he states the historical facts which led to the negotiation and agreement of the terms of cl 14 were as follows:

- (a) On or around 12 March 1999, the Australian Railways Union of Workers, WA Branch and the West Australian Locomotive Engine Drivers', Firemen's and Cleaners' Union of Workers amalgamated. The product of that amalgamation was the creation of the State organisation.
- (b) From the creation of the State organisation until relatively recently, the State organisation operated as if it had a s 71 certificate and deed of arrangement with the Branch which was a single Branch. During that period:
 - (i) the State organisation did not have a s 71 certificate;
 - (ii) the State organisation did not have a deed of arrangement with the Branch;
 - (iii) the elected officials of the Branch acted as the elected officials of the State organisation;
 - (iv) the State organisation and the Branch shared a single bank account which was in the name of the Branch;
 - (v) the State organisation and the Branch treated their respective assets and expenses as joint assets and expenses (this includes ownership of, and income from, a number of properties which are in the name of the State organisation);
 - (vi) the State organisation and the Branch jointly employed a number of employees;
 - (vii) the Branch collected a single set of membership dues from the members of both organisations; and
 - (viii) the combined membership dues of the members of the State organisation and the Branch were used to cover the expenses of both organisations.
- (c) The failure of the original officials of the State organisation to obtain a s 71 certificate meant that the State organisation eventually found itself in a position where it had no elected officials and no members. That error was not discovered by the eligible members of the State organisation or the Branch until around May 2009.
- (d) On or around 1 October 2009, as a result of an order made in PRES 7 of 2009, an interim branch executive was appointed to the State organisation in order to enrol members into the State organisation and hold elections ([2009] WAIRC 00964; (2009) 89 WAIG 2108).
- (e) Despite some initial difficulties, the interim branch executive eventually enrolled members who were employed in or in connection with the Public Transport Authority of Western Australia. It also held its first proper elections in around October 2012. The State organisation has since been working towards getting its affairs in order.
- (f) In around 2000, the Western Australian Government sold off part of its rail business. It broke up the old Westrail organisation. This resulted in some of the members of the State organisation and the Branch no longer working in or in connection with, what is now known as, the Public Transport Authority of Western Australia. Because

of the wording of the eligibility rule of the State organisation, that class of union member was no longer eligible to join the State organisation. That class of union member remained eligible to be a member of the Branch.

- (g) The class of union members referred to in the previous paragraph continued to pay union dues. Those union dues were jointly used by the State organisation and the Branch to cover the costs of both organisations (including by servicing the properties of the State organisation).
- (h) The current division of members within Western Australia is that:
 - (i) union members who work in the Public Transport Authority of Western Australia are in the State organisation and the PTA Branch of the Federal body; and
 - (ii) all other union members in Western Australia are in the RTBU Western Australian Branch of the Federal body.
- (i) The deed of arrangement is the product of several years of negotiations between the State organisation and the Federal body.
- (j) Clause 14 of the deed is intended to ratify the previous dealings between the State organisation and the Branch so as to clear any debts that may exist between the State organisation and the Federal body.
- (k) For over a decade, the State organisation and the Branch, including the more recent time when two Branches came into existence, operated as a single entity. During that time, the membership dues of members of the Branch were used to cover some of the costs of the State organisation. The Branch also used its skill and efforts to manage and maintain the assets of the State organisation. Similarly, the members of the Branch gained benefits through the use of the State organisation's properties (including the receipt of rent).
- (l) Because of the long practice of the State organisation and the Branch of the Federal body operating as a single entity, it would be next to impossible to work out exactly how much each organisation owed to the other. Or to put it another way, it would be too difficult and too expensive to try and unscramble the egg. On that basis, the State organisation and the Federal body have agreed to waive whatever they may owe each other to date.

20 Acting President Ritter observed by way of obiter in *Re The Western Australian Police Union of Workers* that whilst there is no statutory requirement on an organisation making an application under s 71(7) of the Act to provide notice to the members of the relevant organisations, on an appropriate occasion it might be something a Full Bench would require to be done before it reached the level of satisfaction required by s 71(7). In the Full Bench's opinion, it is not necessary to consider in this matter whether his Honour's observation is correct. It is, however, notable that the Full Bench is required to have regard to the interests not only of the members of the State organisation and the Branch but also persons who are eligible to be members.

21 In this matter, the Full Bench is satisfied that the terms of the agreement are not detrimental to the interests of persons eligible to be members of the State organisation and the PTA Branch

and will not prevent or hinder the State organisation from satisfying any debt or obligation howsoever arising. This is because:

- (a) the terms of the agreement protect the funds and assets of the State organisation and the PTA Branch;
- (b) clauses 3 and 4 of the agreement create specific obligations whereby the PTA Branch receives all union dues and it is required to cover the financial liabilities of the State organisation;
- (c) the terms of the agreement provide for efficiencies, such as the sharing of staff, resources, costs of services and the provision of joint services to members of the State organisation and the PTA Branch, together with the other branch of the Federal body, the RTBU, Western Australian Branch;
- (d) clause 11 provides for a dispute resolution procedure;
- (e) clause 14 ratifies past acts and contains a release for both parties from all claims for repayment of monies paid and received which could arise from the past informal arrangement of sharing of resources and funds in Western Australia between the State organisation and the Federal body; and
- (f) the terms of the agreement maintain the status quo.

22 In the Full Bench's opinion, a minute of proposed order should issue as follows:

The agreement constituted by a deed between the applicant and the Australian Rail, Tram and Bus Industry Union, dated 21 May 2015 and duly executed by the parties between 8 December 2016 and 16 December 2016, is approved under s 71(7) of the *Industrial Relations Act 1979* (WA).

[2022] ROCD 71



Australian Government
Registered Organisations Commission

DECISION

Fair Work (Registered Organisations) Act 2009
s.189—Arrangement for conduct of an election

Australian Rail, Tram and Bus Industry Union (E2022/65)

MR STEENSON

SYDNEY, 1 JUNE 2022

Arrangement for conduct of election.

[1] On 28 April the Australian Rail, Tram and Bus Industry Union (**the Organisation**), lodged with the Registered Organisations Commission prescribed information under section 189 of the *Fair Work (Registered Organisations) Act 2009* (**RO Act**), and on 18 May 2022 lodged amended prescribed information, for an election to fill the offices listed in **Attachment A** of this decision for a new term of office.

[2] On 18 May 2022 the organisation also lodged prescribed information under section 187 of for an election to fill the non-office positions listed in **Attachment B** of this decision.

[3] I note that, following the Fair Work Commission’s rule alteration decision on 3 March 2022, [2022] FWCG 4,¹ this election includes the offices of a new (single) branch in Western Australia, which commences on 1 January 2023, a merger in place of the existing two branches – the West Australian Branch and the West Australian PTA Branch. The organisation will need to take this into consideration when providing rolls of voters to the Australian Electoral Commission (**AEC**).

[4] I also note that several of the offices for which an election is sought are subject to formulas in the organisation’s rules for calculating the particular numbers of officers to be elected. Those rules, which are listed in paragraph 7 of the prescribed information, provide the number of officers to be elected is derived from a formula that uses the number of members ‘*at the end of the quarter immediately preceding the date for the opening of nominations*’. As the organisation’s rules and the prescribed information also indicate that the date on which nominations open is 4 July,² the end of the ‘quarter immediately preceding ...’ is therefore 30 June.

[5] In these circumstances, the date for determining the number of officers to be elected does not occur until well after the prescribed date in the *Fair Work (Registered Organisations) Regulations 2009* (**the Regulations**) for lodging prescribed information with the Commission. The prescribed date is two months before nominations open.³ Indeed, the cut-off date for determining the numbers does not occur until a future date after the issue of an election decision by the Commission.

¹ In matter R2021/200

² Rule 71

³ Sub-regulation 138(3) of the Regulations

[6] The operation of these provisions in the organisation's rules has meant, in practice, that this current election decision (**E2022/65**) has to be issued without listing the number of each office to be elected for many of those offices, and instead using the formulation 'number to be determined in accordance with the rules'. While the numbers to be elected will ultimately be included in the call for nominations issued by the AEC, the rules as they currently stand necessitate further work by the AEC, in the short space of time between the end of the quarter and the call for nominations, in order for this to occur.

[7] As part of the Commission's function of providing advice and assistance to registered organisations, I propose to separately engage with the organisation to discuss means by which the above issue may be able to be addressed before the next scheduled election is due.

[8] I am satisfied that an election for the offices and non-office positions set out in **Attachment A** and **Attachment B** respectively is required to be held under the rules of the organisation and, under subsection 189(3) of the RO Act, I am making arrangements for the conduct of the election by the AEC.



DELEGATE OF THE COMMISSIONER

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PR352228

ATTACHMENT A: Offices

National Offices

National President	(1)
National Vice President (Road)	(1)
National Vice-President (Rail)	(1)
National Vice President (Affirmative Action - Women)	(1)
National Secretary	(1)
Assistant National Secretary	(1)
Assistant National Secretary (Tram and Bus Division)	(1)
Assistant National Secretary (Locomotive Division)	(1)
Assistant National Secretary (Rail Operations Division)	(1)
Assistant National Secretary (Fleet Manufacture, Overhaul, Maintenance and Service Division)	(1)
Assistant National Secretary (Infrastructure Division)	(1)
Assistant National Secretary (Administrative, Supervisory, Technical and Professional Division)	(1)
Branch Delegates to the National Executive (from the following Branches):	
New South Wales Branch	(3)
Queensland Branch	(2)
Victorian Branch	(2)

National Divisional Delegates from Branch to National Council, as follows:
(numbers to be determined in accordance with rule 28(3))

New South Wales Branch

Administrative, Supervisory, Technical and Professional Division
Tram and Bus Division
Infrastructure Division
Locomotive Division
Rail Operations Division
Fleet Manufacture, Overhaul, Maintenance and Service Division

Queensland Branch

Administrative, Supervisory, Technical and Professional Division
Tram and Bus Division
Infrastructure Division
Locomotive Division
Rail Operations Division
Fleet Manufacture, Overhaul, Maintenance and Service Division

Tasmanian Branch

Tram and Bus Division

South Australian/Northern Territory Branch

Administrative, Supervisory, Technical and Professional Division

Locomotive Division

Rail Operations Division

Victorian Branch

Administrative, Supervisory, Technical and Professional Division

Tram and Bus Division

Infrastructure Division

Locomotive Division

Rail Operations Division

Fleet Manufacture, Overhaul, Maintenance and Service Division

Western Australian Branch

Infrastructure Division

Locomotive Division

Rail Operations Division

New South Wales Branch Offices

Branch President	(1)
Branch Secretary	(1)
Assistant Branch Secretary (Rail)	(1)
Assistant Branch Secretary (Road)	(1)
Senior Branch Vice-President	(1)
Junior Branch Vice-President	(1)

Branch Divisional Delegates to Branch Council as follows:
(number to be determined in accordance with rule 98(2))

Locomotive Division

Metropolitan District

Northern District

Western District

Southern District

Fleet Manufacture, Overhaul, Maintenance and Service Division

Metropolitan District

Northern, Western & Southern Districts

Rail Operations Division

Metropolitan District

Northern District

Western District

Southern District

Infrastructure Division

Metropolitan District

Northern District
 North Coast District
 Western District
 Southern District

Administrative, Supervisory, Technical and Professional Division

Metropolitan District
 Northern District
 Western & Southern Districts
 STA Group

Tram and Bus Division

also:

Affirmative Action (from Tram and Bus Division)
 Affirmative Action (from Rail Divisions)

NSW Branch Divisional Offices

Locomotive Division

Branch Locomotive Divisional Council

Branch Divisional President	(1)
Branch Divisional Vice President (Freight)	(1)
Branch Divisional Vice President (Passenger)	(1)
Branch Divisional Secretary	(1)
Assistant Branch Divisional Secretary (Freight)	(1)
Assistant Branch Divisional Secretary (Passenger)	(1)

Sub-Divisional Representatives on Branch Divisional Committee (Council) as follows:

Sydney Trains/ETR Group 1	(1)
Sydney Trains/ETR Group 2	(1)
Sydney Trains/ETR Group 3	(1)
Sydney Trains/ETR Group 4	(1)
NSW Trains/Intercity Group	(1)
NSW Trains/Countrylink Group	(1)
North Coast Group	(1)
Western Group	(1)
North-West Group	(1)
South-West Group	(1)
Central Group	(1)
Metropolitan Group 1	(1)

Sub-Divisional Representatives (Depot Organisers) from the following Groups:
(numbers to be determined in accordance with rule 100(4))

North Coast Group
Western Group
North-West Group
South-West Group
Central Group
Metropolitan Group 1
NSW Trains/Intercity Group
NSW Trains/Countrylink Group
Sydney Trains/ETR Group 1
Sydney Trains/ETR Group 2
Sydney Trains/ETR Group 3
Sydney Trains/ETR Group 3

Rail Operations Division

Branch Divisional President	(1)
Branch Divisional Vice-President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Branch Divisional Committee (as follows):

Train Guards Sub-Division	(1)
Customer Service Attendants Sub-Division	(2)
Terminal Operators Sub-Division	(1)
Signallers Sub-Division	(1)
On-Board Passenger Train Sub-Division	(1)
Transport Officers Sub-Division	(1)

Infrastructure Division

Branch Divisional President	(1)
Branch Divisional Vice-President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Divisional Committee (as follows):

Sydney Trains	(10)
Australian Track Corporation	(2)
John Holland Pty Ltd	(2)

Fleet Manufacture, Overhaul, Maintenance and Service Division

Branch Divisional President	(1)
Branch Divisional Vice-President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Divisional Committee (as follows):

Metropolitan District Group (including 1 from Bus Engineering)	(4)
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Northern District Group	(1)
Southern District Group	(1)
Western District Group	(1)

Administrative, Supervisory, Technical and Professional Division

Branch Divisional President	(1)
Branch Divisional Vice-President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Divisional Committee (as follows):

Metropolitan District Group	(7)
Northern District Group	(1)
Southern District Group	(1)
Western District Group	(1)

Tram and Bus Division

Branch Divisional President	(1)
Branch Divisional Vice-President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Divisional Committee (as follows):

Mona Vale	(1)
Brookvale	(1)
Willoughby	(1)
North Sydney	(1)
Kingsgrove	(1)
Ryde	(1)
Leichhardt	(1)
Belmont	(1)
Hamilton	(1)
Waverley	(1)
Randwick	(1)
Port Botany	(1)
Burwood	(1)
Pymont (Sydney Light Rail)	(1)
Tempe	(1)

Tasmanian Branch

Branch President	(1)
Branch Vice-President	(1)
Branch Secretary	(1)

Branch Divisional Delegates to Branch Council, as follows:

(numbers to be determined in accordance with rule 144(2))

Tram & Bus Division
Rail Division

Branch Divisional OfficesTram and Bus Division

Branch Divisional President	(1)
Branch Divisional Vice-President (Northern and North-West Coast Regions)	(1)
Branch Divisional Vice-President (Southern Region)	(1)
Branch Divisional Secretary	(1)

Branch Sub-Divisional Representatives to Branch Divisional Committee, as follows:

Burnie Sub-Division	(1)
Launceston Sub-Division	(1)
Springfield Sub-Division	(1)
Administrative / Supervisory Sub-Division	(1)

Rail Division

Branch Divisional President	(1)
Branch Divisional Secretary	(1)

Regional Representatives to Branch Divisional Committee (as follows):

North West Coast Region	(1)
Northern Region	(1)
Southern Region	(1)

South Australia/Northern Territory Branch

Branch President	(1)
Branch Vice-President	(1)
Branch Vice-President (Women)	(1)
Branch Deputy Vice President Metro	(1)
Branch Deputy Vice President Regional	(1)
Branch Secretary	(1)

Branch District Delegates to Branch Council, as follows:

ARTC District	(1)
Pacific National District	
Metro	(1)
Regional	(1)
SCT District	(1)
ORA District	
Metro	(1)
Regional	(1)
Tram District	(1)
Metro Trains District	(2)
Northern Territory District	(1)

Queensland Branch

Branch President	(1)
Branch Senior Vice-President	(1)
Branch Junior Vice-President (Tram and Bus)	(1)
Branch Junior Vice-Presidents	(2)
Branch Secretary	(1)
Assistant Branch Secretary (Tram and Bus)	(1)
Branch Organiser (Tram and Bus Division)	(1)

Delegates to Branch Council (as follows):

Northern District (Rail Operations Division)	(1)
Central District (Rail Operations Division)	(1)
Southern District (Rail Operations Division)	(1)
Northern District (Infrastructure Division)	(1)
Central District (Infrastructure Division)	(1)
Southern District (Infrastructure Division)	(1)
Northern District (Fleet Manufacture, Overhaul, Maintenance and Service Division)	(1)
Central District (Fleet Manufacture, Overhaul, Maintenance and Service Division)	(1)
Southern District (Fleet Manufacture, Overhaul, Maintenance and Service Division)	(1)
North-West Region	(1)
Central-West Region	(1)
South-West Region	(1)
Southern District (All Divisions) (Female)	(1)
Central & Northern Districts (All Divisions) (Female)	(1)
Private Sector (Operations Division)	(1)

Branch Divisional Offices**Tram and Bus Division**

Branch Divisional Secretary	(1)
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Sub-Divisional Representatives, as follows:

Carina Bus Depot	(1)	
Toowong Bus Depot	(1)	
Trade Coast Bus Depot	(1)	(refer rule 116(1))
Virginia Bus Depot	(1)	
Garden City Bus Depot	(1)	
Sherwood Bus Depot	(1)	
Gold Coast Tram Depot	(1)	
Willawong Bus Depot	(1)	

Locomotive Division

Sub-Divisional Representatives (as follows):

Locomotive Sub-Division Coal

Coal Depots (Northern District)	(1)
Coal Depots (Blackwater & Moura Systems)	(1)
Coal Depots (Goonyella System Coal Depots)	(2)
Coal Depots (Southern District)	(1)

Locomotive Sub-Division Freight

Freight Depots (Charters Towers to Mount Isa)	(1)
Freight Depots (Mackay to Cairns Systems)	(2)
Freight Depots (Rockhampton to Winton)	(1)
Freight Depots (Southern District)	(1)

Locomotive Sub-Division Passenger

Suburban Passenger Depot Mayne (Driver)	(1)
Suburban Passenger Depot Mayne (Guard)	(1)
Suburban Passenger Out Depots (Nambour, Caboolture, Petrie, Shorncliffe, Manly, Beenleigh, Robina, Redbank, Gympie, Doomben, Fern Grove, Richlands and Ipswich) (Driver)	(1)
Suburban Passenger Out Depots (Nambour, Caboolture, Petrie, Shorncliffe, Manly, Beenleigh, Robina, Redbank, Gympie, Doomben, Fern Grove, Richlands and Ipswich) (Guard)	(1)
Passenger Regional Depots (Cairns, Bundaberg and Townsville)	(1)

Fleet Manufacture, Overhaul, Maintenance and Service Division

Regional Representatives (as follows):

South West Region	(1)
South East Region	(1)

Rail Operations Division

Regional Representatives (as follows):

Wide Bay Region	(1)
South West Region	(1)
South East Region	(1)
Private Sector	(1)

Infrastructure Division

Regional Representatives (as follows):

Wide Bay Region	(1)
South West Region	(1)
South East Region	(1)

Administrative, Supervisory, Technical and Professional Division

Regional and District Representatives (as follows):

Northern District	(1)
Central District	(1)
Southern District	(1)
South East Region	(1)

Queensland Branch Affirmative Action Women's Campaign Committee

Delegates (as follows):

Southern District	(2)
Central District	(1)
Northern District	(1)
Tram and Bus Division	(1)

Victorian Branch

Branch President	(1)
Branch Senior Vice President	(1)
Branch Junior Vice President	(1)
Branch Secretary	(1)
Assistant Branch Secretary	(1)
Branch Divisional Organiser (Infrastructure/Fleet Manufacture Divisions)	(1)
Branch Divisional Organiser (Administrative, Supervisory, Technical and Professional/Rail Operations Divisions)	(1)

Divisional Delegates to Branch Council, as follows:

(numbers to be determined in accordance with rule 157(2))

Rail Operations Division

Infrastructure Division

Administrative, Supervisory, Technical and Professional Division

Fleet Manufacture, Overhaul, Maintenance and Services Division

Branch Divisional Offices

Rail Operations Division

Branch Divisional President	(1)
Branch Divisional Vice President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Branch Divisional Committee (as follows):

Pacific National Sub-Division	(1)
V/Line Passenger Sub-Division	(2)
V/Line Network and Access (Operations) Sub-Division	(1)
Metro Sub-Division	(5)

Infrastructure Division

Branch Divisional President	(1)
Branch Divisional Vice President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Branch Divisional Committee (as follows):

EDI Downer Works Sub-Division	(1)
Metro Sub-Division	(6)
V/Line Passenger Infrastructure Sub-Division	(2)
Miscellaneous Sub-Division	(1)

Administrative, Supervisory, Technical and Professional Division

Branch Divisional President	(1)
Branch Divisional Vice President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Branch Divisional Committee (as follows):

Metro Fleet Manufacture, Overhaul, Maintenance & Service Sub-Division	(1)
Metro Infrastructure Sub-Division	(1)
Metro Rail Operations Sub-Division	(4)
V/Line Passenger Sub-Division	(1)
V/Line Passenger Infrastructure Sub-Division	(1)
Miscellaneous Sub-Division	(1)

Fleet Manufacture, Overhaul, Maintenance and Service Division

Branch Divisional President	(1)
Branch Divisional Vice President	(1)
Branch Divisional Secretary	(1)

Sub-Divisional Representatives on Branch Divisional Committee (as follows):

Metro Sub-Division	(3)
EDI-Workshops Sub-Division	(2)
Miscellaneous Sub-Division	(1)

Tram and Bus Division

Branch Divisional President	(1)
Branch Divisional Vice President	(1)
Branch Divisional Secretary	(1)
Branch Divisional Assistant Secretary	(1)

Sub-Divisional Representatives on Branch Divisional Committee (as follows):

Brunswick Sub-Division	(1)
Camberwell Sub-Division	(1)
Essendon Sub-Division	(1)
Glenhuntly Sub-Division	(1)
Kew Sub-Division	(1)

Malvern Sub-Division	(1)
Preston Sub-Division	(1)
Southbank Sub-Division	(1)
Bendigo Trams Sub-Division	(1)
Tram Hub Sub-Division	(1)
Preston Workshops Sub-Division	(1)
Tram Infrastructure Sub-Division	(1)
Tram Maintenance Sub-Division	(1)
Authorised Officers Sub-Division	(1)

Locomotive Division

Branch Divisional President	(1)
Branch Divisional Vice President	(1)
Branch Divisional Secretary	(1)
Branch Divisional Assistant Secretary	(1)

Sub-Divisional Representatives on Branch Divisional Committee (as follows):

Metropolitan Sub-Division	(4)
Pacific National Victorian General Freight, Bulk Rail and Grain Sub-Division	(1)
V/Line Passenger Sub-Division	(2)
Pacific National Intermodal Sub-Division	(1)

Western Australia Branch

Branch Offices

Branch Secretary	(1)
Branch President	(1)
Branch Vice-President (Freight)	(1)
Branch Vice President (Passenger)	(1)
Affirmative Action Councillor	(1)

Sub-branch Offices:

The Freight Section:

Goldfields Sub-Branch Sub-Branch Secretary	(1)
Metro Sub-Branch Sub-Branch Secretary	(1)
Mid-West Sub-Branch Sub-Branch Secretary	(1)
South-West Sub-Branch Sub-Branch Secretary	(1)
Wheatbelt Sub-Branch Sub-Branch Secretary	(1)

Metropolitan Sub-Branch
Sub-Branch Secretary (1)

Regional Sub-Branch
Sub-Branch Secretary (1)

Freight Infrastructure Sub-Branch
Sub-Branch Secretary (1)

Passenger Section:

Customer Relations Sub-Branch
Sub-Branch Secretary (1)

Urban Rail Sub-Branch
Sub-Branch Secretary (1)

Security Sub-Branch
Sub-Branch Secretary (1)

State Network and Infrastructure Sub-Branch
Sub-Branch Secretary (1)

Federal Network and Infrastructure Sub-Branch
Sub-Branch Secretary (1)

Miscellaneous Sub-Branch
Sub-Branch Secretary (1)

Trans WA Sub-Branch
Sub-Branch Secretary (1)

ATTACHMENT B: Non-office positions

New South Wales Branch

Sub-Divisional positions (as follows):

Train Guards Sub-Division

Branch Sub-Division President	(1)
Branch Sub-Division Vice President	(1)
Branch Sub-Division Secretary	(1)

Depot Sub-Division Secretaries (as follows):

Blacktown	(1)
Campbelltown	(1)
Cronulla	(1)
Flemington Maintenance Centre	(1)
Gosford	(1)
Hornsby Maintenance Centre	(1)
Lithgow	(1)
Leppington	(1)
Mortdale Maintenance Centre	(1)
Moss Vale	(1)
Mount Victoria	(1)
Newcastle Interchange	(1)
North Sydney	(1)
Penrith	(1)
Richmond	(1)
Central	(1)
Sydney Inter-City	(1)
Waterfall	(1)
Wollongong	(1)
Auburn Stabling Yard (ASY)	(1)

Customer Service Attendants Sub-Division

Branch Sub-Division President	(1)
Branch Sub-Division Vice President	(1)
Branch Sub-Division Secretary	(1)

Sub-Depot representatives (as follows):

City Circle	(1)
Berowra	(1)
Olympic Park	(1)
Waterfall	(1)
Macarthur	(1)
Emu Plains	(1)
Lithgow	(1)
Moss Vale	(1)
Bomaderry	(1)
Scone/Dungog	(1)

Terminal Operators Sub-Division

Branch Sub-Division President	(1)
Branch Sub-Division Vice President	(1)
Branch Sub-Division Secretary	(1)

Signallers Sub-Division

Branch Sub-Division President	(1)
Branch Sub-Division Vice President	(1)
Branch Sub-Division Secretary	(1)

Sub-Depot representatives (as follows):

Sydney	(1)
Sydenham	(1)
Homebush	(1)
Strathfield	(1)
Hornsby	(1)
Blacktown	(1)
Central Coast (Gosford, Wyong, Newcastle)	(1)
Blue Mountains (Lithgow, Mt. Victoria, Katoomba, Springwood)	(1)
Penrith/St Marys	(1)
Wollongong	(1)
Campbelltown	(1)
Granville/Clyde/Auburn	(1)

On-Board Passenger Train Sub-Division

Branch Sub-Division President	(1)
Branch Sub-Division Vice President	(1)
Branch Sub-Division Secretary	(1)

Sub-Division Secretaries (as follows):

Sydney	(1)
Albury	(1)
Dubbo	(1)
Grafton	(1)

Transport Officers Sub-Division

Branch Sub-Division President	(1)
Branch Sub-Division Vice President	(1)
Branch Sub-Division Secretary	(1)

South Australia/Northern Territory Branch**Branch Divisional positions**

Branch Regional Sub-Branch Committees (as follows):

Adelaide Metro Region

Branch Regional Sub-Branch President	(1)
Branch Regional Sub-Branch Vice-President	(1)
Branch Regional Sub-Branch Secretary	(1)

South Australia and Northern Territory Region

Branch Regional Sub-Branch President	(1)
Branch Regional Sub-Branch Vice-President	(1)
Branch Regional Sub-Branch Secretary	(1)

Victorian Branch

Sub-Divisional Committees (as follows):

Metropolitan (incorp. Epping, Ringwood, Dandenong, Frankston, Broadmeadows, Sydenham and Newport Outstations)

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

V/Line Passenger Southern Cross

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

V/Line Passenger Traralgon/Sale

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

V/Line Passenger Ballarat

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

V/Line Passenger Seymour (incorporating Wodonga Passenger)

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

V/Line Passenger Bendigo (incorporating Kyneton Passenger)

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

V/Line Passenger Geelong

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

Pacific National Central (incorporating Qube Logistics, Aurizon and SCT)

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

Pacific National Maryborough (incorporating Bendigo, Mildura and Ouyen)

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

Pacific National Dimboola

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

Pacific National Geelong

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

Pacific National - Wimmera

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

Pacific National - Melbourne

Branch Sub-Divisional President	(1)
Branch Sub-Divisional Vice President	(1)
Branch Sub-Divisional Secretary	(1)
Branch Sub-Divisional Committee members	(7)

Regional Sub-Branches

Western Region

President	(1)
Senior Vice President	(1)
Junior Vice President	(1)
Secretary	(1)
Sub-Branch Representatives	(4)

Northern Region

President	(1)
Senior Vice President	(1)
Junior Vice President	(1)
Secretary	(1)
Sub-Branch Representatives	(4)

Southern Region

President	(1)
Senior Vice President	(1)
Junior Vice President	(1)
Secretary	(1)
Sub-Branch Representatives	(4)

Western Australia Branch*The Freight Section:*Goldfields Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Metro Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Mid-West Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

South-West Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Wheatbelt Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Metropolitan Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Regional Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Freight Infrastructure Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

*The Passenger Section:*Customer Relations Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Urban Rail Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Security Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

State Network and Infrastructure Sub-Branch

Sub-Branch President	(1)
Sub-Branch Vice-President	(1)

Committee members	(7)
<u>Federal Network and Infrastructure Sub-Branch</u>	
Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)
<u>Miscellaneous Sub-Branch</u>	
Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)
<u>Trans WA Sub-Branch</u>	
Sub-Branch President	(1)
Sub-Branch Vice-President	(1)
Committee members	(7)

Australian Rail, Tram and Bus Industry Union

Western Australia Branch

ELECTION NOTICE - E2022/65

Scheduled Election

Fair Work (Registered Organisations) Act 2009

Nominations are called for:

Western Australia Branch Offices

Branch Secretary* (1)
 Branch President (1)
 Branch Vice-President (Freight) (1)
 Branch Vice President (Passenger) (1)
 Affirmative Action Councillor (1)

Sub-branch Offices:

The Freight Section:

Goldfields Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Metro Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Mid-West Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

South-West Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Wheatbelt Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Metropolitan Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Regional Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Freight Infrastructure Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Passenger Section:

Customer Relations Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Urban Rail Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Security Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

State Network and Infrastructure Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Federal Network and Infrastructure Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Miscellaneous Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

Trans WA Sub-Branch

Sub-Branch President (1)
 Sub-Branch Vice-President (1)
 Sub-Branch Secretary (1)
 Committee members (7)

NOTE: All offices that are followed by an * are identified as paid positions. For duties and responsibilities of each office please refer to the organisation's rules.

Nominations, which must be in writing and comply with the registered rules of the Organisation, may be made at any time from 22/08/2022.

A nomination form is available for electronic completion on the AEC Portal, www.aec.gov.au/ieb/. However, the nomination form must then be lodged in accordance with the Organisation's rules.

A Nomination form is available from the AEC website, the Returning Officer or from the branch office of the Union.

Prospective candidates and nominators should verify their financial status and any other qualifications required by the Organisation's rules prior to lodging nominations.

Nominations must reach the Returning Officer via the lodgement method(s) stipulated below **not later than 5:00pm Australian Eastern Standard Time (AEST) on 12/09/2022.**

How to lodge nominations, nominations must be lodged via the following method(s):

By Portal: Australian Electoral Commission Portal, www.aec.gov.au/ieb/

By Email: A properly completed nomination form including all necessary signatures and attachments may be scanned and submitted as a pdf file to IEBnominations@aec.gov.au

PLEASE NOTE:

1. Emails to the AEC inbox that appear to be spam may be blocked. It is the responsibility of senders to ensure that their email reaches the AEC before the deadline for nominations.
2. In order to be able to be received by the AEC, emails (including attachments) should be no greater than 6 MB in size.
3. You may call 02 9375 6366 or 03 9285 7111 to enquire about the status of your nomination.
4. The subject line of the email should include the reference: ARTBIU –E2022/65 – Your Branch/Division – your name

Withdrawing Nominations

Nominations cannot be withdrawn after 5:00pm Australian Eastern Standard Time (AEST) on 19/09/2022.

Candidate Statements:

Candidates may submit a statement, as a Microsoft word document, not exceeding 250 words. A passport style photo may also be submitted with the candidate statement for publication. Statements **must not** contain any derogatory or inappropriate language and must be received by the Returning Officer **not later than 5:00pm Australian Eastern Standard Time (AEST) on 12/09/2022.**

Voting Period

The ballot, if required, will open on 24/10/2022 and close at 5:00pm Australian Eastern Daylight Time (AEDT) on 21/11/2022.

Scrutineers

A candidate in any election shall be entitled to appoint, by notice in writing to the Returning Officer, another person to act at his/her own expense as a scrutineer on his/her behalf.

A form is available from the Returning Officer for the purposes of appointing Scrutineers.

Other Information

Changed Address? Advise the Organisation now.

Please Note: A copy of the AEC's election report can be obtained from the Organisation or from the Returning Officer after the completion of the election.

Catherine Bernoth
Returning Officer
Telephone: 02 9375 6366 or 03 9285 7111
Email: IEBevents@aec.gov.au
01/08/2022

