

## **Regulation 126 Fair Work (Registered Organisations) Regulations 2009**

### **NOTICE OF PARTICULARS OF RULE ALTERATIONS**

Alter Divisional Rule 16 as follows, using ~~strike through~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N-MUA Certified 13 April 2021]:

#### **16 - DIVISIONAL NATIONAL COUNCIL – COMPOSITION**

Divisional National Council shall be comprised of the following Officers:-

Divisional National Secretary  
Divisional Deputy National Secretary

Divisional Assistant National Secretary/s

Divisional Assistant National Secretary –Woman

Divisional Assistant National Secretary- Aboriginal and Torres Strait Islander

Queensland Divisional Branch Secretary

Queensland Divisional Deputy Branch Secretary

Newcastle Divisional Branch Secretary

Newcastle Divisional Deputy Branch Secretary

Sydney Divisional Branch Secretary

Sydney Divisional Deputy Branch Secretary

Southern New South Wales Divisional Branch Secretary

Southern New South Wales Divisional Deputy Branch Secretary

Victorian Divisional Branch Secretary

Victorian Divisional Deputy Branch Secretary

South Australian Divisional Branch Secretary

South Australian Divisional Deputy Branch Secretary

Western Australian Divisional Branch Secretary

Western Australian Divisional Deputy Branch Secretary

Tasmanian Divisional Branch Secretary

Tasmanian Divisional Deputy Branch Secretary

Northern Territory Divisional Branch Secretary

Northern Territory Divisional Deputy Branch Secretary

Divisional National Women's Representative

Alter Divisional Rule 18 as follows, using ~~striketrough~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N-MUA Certified 13 April 2021]:

### **18 - DIVISIONAL NATIONAL EXECUTIVE**

- (a) There shall be a Divisional National Executive comprising: -
- Divisional National Secretary
  - Divisional Deputy National Secretary
  - Divisional Assistant National Secretary/s
  - Divisional Assistant National Secretary – Woman
  - Divisional Assistant National Secretary – Aboriginal and Torres Strait Islander
  - Divisional National Presiding Officer
  - Divisional Deputy National Presiding Officer
- 2 other members elected by and from Divisional National Council in accordance with the provisions of Divisional Rule 48 both of whom shall be the Divisional National Vice Presiding Officers.
- (b) Divisional National Executive shall consider and advise Divisional National Council on matters referred to it by Divisional National Council or the Divisional National Secretary.
- (c) Meetings of Divisional National Executive shall be called by the Divisional National Secretary as and when required.
- (d) The Divisional National Executive Officers shall be the Divisional National Secretary and the Divisional National Presiding Officer

Alter Divisional Rule 31 as follows, using ~~strike through~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N-MUA Certified 13 April 2021]:

### **31 - OFFICERS OF THE DIVISION**

The Officers of the Division shall be the Divisional National Officers and the Divisional Branch Officers.

#### Divisional National Officers

- (a) The Divisional National Officers of the Division shall be the: -

Divisional National Secretary

Divisional National Deputy Secretary

Divisional National Assistant Secretary/s

Divisional National Assistant Secretary – Woman

Divisional National Assistant Secretary – Aboriginal and Torres Strait Islander

and the following members of Divisional National Council elected by and from Divisional National Council in accordance with the Rules:-

Divisional National Presiding Officer

Divisional National Deputy Presiding Officer

Divisional National Vice-Presiding Officer

- (b) Provided that the number of Divisional National Assistant Secretary/s shall be determined by Divisional National Council prior to January 31 in the year of a Quadrennial Election and the Divisional National Secretary shall as soon as practicable advise the members of the Division and the Divisional National Returning Officer accordingly.

#### Divisional Branch Officers

- (c) The Divisional Branch Officers shall be the:-

Divisional Branch Secretary

Divisional Branch Deputy Secretary

Divisional Branch Assistant Secretary/s

and the Divisional Branch Presiding Officer elected by and from the Divisional Branch Executive in accordance with the Divisional Rules.

- (d) Provided that the number of Divisional Branch Officer/s (other than Divisional Branch Secretary) shall be determined by Divisional National Council prior to January 31 in the year of a Quadrennial Election and the Divisional National Secretary shall as soon as practicable advise the members of the Divisional

Branch and the Divisional National Returning Officer accordingly.

Wages of Officers of the Division

- (e) The remuneration of all Officers of the Division shall be as determined by Divisional National Council.
- (f) Each member of Divisional National Council, Divisional National Executive and a Divisional Branch Executive shall have a duty to regularly attend its meetings.

Alter Divisional Rule 34 as follows, using ~~strike through~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N-MUA Certified 13 April 2021]:

### **34 - DIVISIONAL ASSISTANT NATIONAL SECRETARY/S - POWERS AND DUTIES**

- (a) The Divisional Assistant National Secretary/s shall:
  - (i) be full-time Officers and shall be subject to the supervision and direction of the ~~Divisional~~ National Secretary; and
  - (ii) give all reasonable assistance to the Divisional National Secretary as and when required.
  
- (b) Should the Divisional Deputy National Secretary be absent at the same time as the Divisional National Secretary, Divisional National Council shall appoint a Divisional Assistant National Secretary, Divisional Assistant National Secretary – Woman, or Divisional Assistant National Secretary – Aboriginal and Torres Strait Islander to act in place of the Divisional National Secretary until such time as the Divisional National Secretary or Divisional Deputy National Secretary return to duty and whilst so appointed the Divisional Assistant National Secretary appointed shall have the powers and duties of the Divisional National Secretary.

After Divisional Rule 34, insert new Divisional Rule 34A as follows, using ~~striketrough~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N- MUA Certified 13 April 2021]:

**34A DIVISIONAL ASSISTANT NATIONAL SECRETARY - WOMAN - POWERS AND DUTIES**

- (a) The Divisional Assistant National Secretary - Woman shall:
- (i) be full-time Officers and shall be subject to the supervision and direction of the Divisional National Secretary;
  - (ii) give all reasonable assistance to the Divisional National Secretary as and when required, and in relation to matters affecting women; and
  - (iii) have the same powers and duties of the Divisional National secretary if appointed in accordance with 34(b).

After new Divisional Rule 34A, insert new Divisional Rule 34B as follows, using ~~striketrough~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N- MUA Certified 13 April 2021]:

**34B DIVISIONAL ASSISTANT NATIONAL SECRETARY – ABORIGINAL AND TORRES STRAIT ISLANDER - POWERS AND DUTIES**

- (a) The Divisional Assistant National Secretary – Aboriginal and Torres Strait Islander shall:
- (i) be full-time Officers and shall be subject to the supervision and direction of the Divisional National Secretary;
  - (ii) give all reasonable assistance to the Divisional National Secretary as and when required, and in relation to matters affecting Aboriginal and Torres Strait Islander people; and
  - (iii) have the same powers and duties of the Divisional National secretary if appointed in accordance with 34(b).

Alter Divisional Rule 43 as follows, using ~~strike through~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N-MUA Certified 13 April 2021]:

### **43 QUADRENNIAL ELECTIONS**

(a) On and from the Quadrennial Election to be held in 2015, Elections for each of the Offices listed in Sub-Rule (b) of this Rule shall be held every four years in accordance with the Rules.

(b) Electorates

(i) All members of the Division eligible to vote in accordance with the Rules shall elect persons to fill the Offices listed below:-

Divisional National Secretary

Divisional National Deputy Secretary

Divisional National Assistant Secretary/s (subject to Rule 31 (b))

Divisional National Assistant Secretary – Woman

Divisional National Assistant Secretary – Aboriginal and Torres Strait

Islander

Divisional National Women's Representative

(ii) In each Divisional Branch the members allocated to it and eligible to vote in accordance with the Rules shall elect persons to fill the Offices listed below:-

Divisional Branch Secretary

Divisional Branch Deputy Secretary (subject to Rule

31 (d)) Divisional Branch Assistant Secretary/s

(subject to Rule 31 (d))

(c) Taking Office

All persons declared elected shall take Office from July 1 in the year of the Quadrennial Election.

(d) If a date for taking any step in an election falls on a Saturday, Sunday or public holiday, the date for taking the step shall be the next ensuing working week day.



Alter Divisional Rule 15 as follows, using ~~strike through~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N-MUA Certified 13 April 2021]:

#### 45 NOMINATIONS

- (a) Nominations for Offices to be filled at a Quadrennial Election of the Division shall open on February 25 and close at 5pm on March 25 in the year of the election.
- (b) All nominations papers containing the nominees name as contained on the Roll or as abbreviated, derived or consistently used, shall be signed by the nominee and two members of the Division who are financial as at the close of nominations.
- (c) All nomination papers shall be forwarded by mail or delivered addressed to the Divisional National Returning Officer at a post office box under the control of the Returning Officer. Where the nomination papers are forwarded by mail the nominee shall retain verification of the date and means of postage.
- (d) A nomination once received by the Divisional National Returning Officer may not be withdrawn.
- (e) If the Divisional National Returning Officer finds a nomination to be defective the Divisional National Returning Officer shall before rejecting the nomination notify the member concerned of the defect and where practicable give the member not less than 7 days from the day of such notification to remedy the defect.

#### Eligibility to Nominate

- (f) Subject to the Rules nominations for all Offices shall be open to all members of the Division who are financial as at the close of nominations.
- (g) Notwithstanding Rule 45(f), the Offices of Divisional National Assistant Secretary – Woman and Divisional National Assistant Secretary – Aboriginal and Torres Strait Islander shall only be eligible for nomination by a woman and an Aboriginal and Torres Strait Islander person (as defined) respectively.

~~(g)~~ (h) *A member shall be eligible to nominate if at the close of nominations the member is financial and has remained a member for at least one year immediately prior to the close of nominations and has been engaged or reasonably seeking to be engaged in an occupation covered by the Eligibility Rule for that year.*

*Provided that for the purposes of this Sub-Rule a member:*

- (i) whilst holding an elected Office in the Division shall be deemed to have been engaged in an occupation covered by National Rule 2(S) (Eligibility); or*
- (ii) who after becoming a member of the Division is employed by the Division to assist in the work of the Division shall be deemed to have been engaged in an occupation covered by National Rule 2(S) (Eligibility)*

~~(h)~~ (i) No member shall be eligible to nominate for more than one Office of Officer of the Division. If a member nominates for more than one such Office each such nomination shall be void.

~~(h)~~ No Officer of the Division shall be eligible to nominate for a different Office of Officer of the Division at an election (including an election to fill a casual vacancy) unless such Officer has given written notice to the Divisional National Secretary of intention to do so.

~~An Officer of the Division who does not intend to nominate for election to any Office of Officer of the Division at an election shall give written notice to the Divisional National Secretary accordingly.~~

~~Notices under this Sub-Rule shall be irrevocable and shall be given at least 28 days before the opening of nominations. The Divisional National Secretary shall inform the membership of a notice as soon as possible.~~

(j) No member shall be eligible to nominate for more than one of the two Offices of Divisional National Assistant Secretary – Woman and Divisional National Assistant Secretary – Aboriginal and Torres Strait Islander in accordance with Rule 45(g). If a member nominates for more than one such Office each such nomination shall be void.

(k) No member shall be eligible to nominate for one of the two Offices of Divisional National Assistant Secretary – Woman and Divisional National Assistant Secretary – Aboriginal and Torres Strait Islander in accordance with Rule 45(g) and the Office of Divisional National Assistant Secretary in accordance with Rule 45(f). If a member nominates for more than one such Office each such nomination shall be void.

(l) No Officer of the Division shall be eligible to nominate for a different Office of Officer of the Division at an election (including an election to fill a casual vacancy) unless such Officer has given written notice to the Divisional National Secretary of intention to do so.

An Officer of the Division who does not intend to nominate for election to any Office of Officer of the Division at an election shall give written notice to the Divisional National Secretary accordingly.

Notices under this Sub-Rule shall be irrevocable and shall be given at least 28 days before the opening of nominations. The Divisional National Secretary shall inform the membership of a notice as soon as possible.

#### Election Statement

⊕ (m) A candidate in an election may forward with the candidate's nomination form a head and shoulder photograph and a 200 word statement for forwarding with ballot papers in accordance with Rule 47(c). The statement shall require the approval of the Divisional National Returning Officer and shall meet all requirements of the law. Scandalous or defamatory matter will not be forwarded. Words in excess of the 200 word limit will be deleted from the end of the statement.

Alter Divisional Rule 47 as follows, using ~~strike through~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N-MUA Certified 13 April 2021]:

## **47 - ELECTION PROCEDURES**

### One Candidate Only

- (a) In the event of only one candidate being nominated for an Office the Divisional National Returning Officer shall declare the candidate elected to the Office.
  - (i) In the case of Quadrennial Elections the candidate declared elected shall take Office on and from July 1 in the year of the election.
  - (ii) In the case of an election to fill a casual vacancy the candidate declared elected shall take Office on and from the declaration of the election by the Divisional National Returning Officer.

### Two or More Candidates

- (b) In the event of two or more candidates being nominated for any Office a ballot shall be conducted and the Divisional National Returning Officer shall:
  - (i) seven days following the closure of nominations arrange for the printing of the ballot papers which shall contain the names of the candidates in alphabetical order; and
  - (ii) initial each ballot paper before despatching papers to voters. Provided that the Divisional National Returning Officer's initials may be affixed by facsimile or electronic imprint.

### Issue and Return of Ballot Materials

- (c) The ballot shall be opened on April 28 by the Divisional National Returning Officer posting to each member listed on the Roll of Voters:-
  - (i) voting instructions from the Divisional National Returning Officer
  - (ii) a ballot paper
  - (iii) a declaration envelope which complies with the form prescribed by the RO Regulations
  - (iv) a prepaid envelope which complies with the form prescribed by the RO Regulations addressed to the Divisional National Returning Officer
  - (v) all Election Statements approved by the Divisional National Returning Officer in accordance with Rule 45(j)(m).
- (d) The instructions to each voter shall include instructions to take the following steps:-

- (i) place a cross or a tick next to the name of the candidate on the ballot paper the voter wishes to vote for
  - (ii) place the ballot paper in the declaration envelope and sign the declaration on the declaration envelope
  - (iii) place the sealed declaration envelope inside the prepaid envelope addressed to the Divisional National Returning Officer and seal it
  - (iv) post the prepaid envelope addressed to the Divisional National Returning Officer
- (e) In the case of Quadrennial Elections voters shall also be instructed that the ballot shall close on June 14 and that only ballot papers received by the Divisional National Returning Officer by that time shall be counted provided that a ballot paper contained in the prepaid envelope which is received by the Divisional National Returning Officer by no later than June 19 bearing a post mark dated not later than June 14 shall be counted.

### Absentee Voting

- (f) A member entitled to vote may apply in writing to the Divisional National Returning Officer for an absentee vote in which case ballot materials may be given to the member personally or posted to an address nominated by the member. All such applications shall be made before 5pm on June 7 in the year of a Quadrennial Election.

### Counting the Ballot

- (g) On June 15 the Divisional National Returning Officer and the Divisional Deputy National Returning Officers shall attend at a place nominated by and under the control of the Divisional National Returning Officer in order to count the ballot.
- (h) The Divisional National Returning Officer shall notify each candidate by post of the place and date of the count at least 7 days prior to the count.
- (i) The count shall be conducted as follows:
- (i) The Divisional National Returning Officer shall in the presence of any scrutineers open the envelopes addressed to the Divisional National Returning Officer.
  - (ii) The declaration envelope shall be checked against the Roll of Voters to ensure that no votes are cast except by those entitled to vote and that no member votes more than once.
  - (iii) The Divisional National Returning Officer shall before removing the ballot paper from the declaration envelope first remove the flap or label on each declaration envelope and then shall open the declaration envelope and

remove the ballot paper. The Divisional National Returning Officer shall ensure that no flap or label may be identified with a ballot paper.

- (iv) Counting shall then be commenced.

#### Declaration of Election Result

- (j)
  - (i) On completion of the count the Divisional National
  - (ii) Returning Officer shall forthwith declare elected the candidate receiving the most votes.
  - (iii) The Divisional National Returning Officer shall declare the result of the election in writing to the Divisional National Secretary and each Divisional Branch Secretary.
  - (iv) The Divisional National Secretary shall publish to the members of the Division the declaration of the result of the election.
- (ii) All persons declared elected shall take Office from July 1 in the year of the Quadrennial Election.

#### Scrutineers

- (k) Each candidate shall have the right to appoint not more than two scrutineers being financial members of the Division who shall be entitled to be present at all stages of the count. The appointment of scrutineers shall be by notice in writing signed by the candidate to the Divisional National Returning Officer. The rights and duties of scrutineers shall be to represent the interest of their appointing candidate. They shall be entitled to be present at all stages of the ballot while the Returning Officer carries out the procedures under the Rules and to direct the attention of the Returning Officer to any irregularity concerning the carrying out of any step in the ballot. They shall do all things necessary so that the secrecy of the ballot shall be observed. They shall not obstruct the Returning Officer in the performance of the Returning Officer's duties nor interfere with the conduct of the ballot.

#### Protests

- (l) In the event of any protest being lodged against any candidate or against any part of the proceedings the counting of the ballot shall continue, and the protest shall be made the subject of inquiry after the declaration by the Divisional National Returning Officer.

Alter Divisional Rule 67 as follows, using ~~strike through~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N-MUA Certified 13 April 2021]:

## 67 DEFINITIONS

In the Divisional Rules, unless the context otherwise indicates or the contrary intention appears:-

“Aboriginal and Torres Strait Islander person” means any member who is of Aboriginal or Torres Strait Islander descent, who is accepted as such by her or his community, and has identified himself or herself to the Union as Aboriginal and Torres Strait Islander.

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

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

“Commonwealth”, “Commonwealth of Australia” or “Australia” shall include the territories of the Commonwealth;

“declared person or body” means:

- (i) an Officer of the Division or a Divisional Branch of the Division who has disclosed a material personal interest under Rule 55; and
- (ii) the interest relates to, or is in, the person or the body; and
- (iii) the Officer has not notified the Division or a Divisional Branch of the Division that the Officer no longer has the interest.

“disclosure period” for the purposes of the Divisional Rules means the financial year unless a shorter period is specified;

“financial duties” includes duties that relate to the financial management of the Division or a Divisional Branch of the Division;

“financial year” means a twelve-month period ending at midnight on June 30 in each year;

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

“non cash benefit” means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes;

“office” has the same meaning as defined by section 9 of the RO Act;

“Officer” has the same meaning as defined by section 6 of the RO Act;

“peak council” has the same meaning as defined by section 12 of the Act ;

“related party” has the same meaning as defined by section 9B of the RO Act;

“relative” in relation to a person means:

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

“relevant non cash benefits” in relation to an Officer of the Division or a Divisional Branch of the Division for a disclosure period means the non cash benefits provided to the Officer of the Division or a Divisional Branch of the Division, at any time during the disclosure period, in connection with the performance of the Officer’s duties as an Officer of the Division or a Divisional Branch of the Division, by the Division or a Divisional Branch of the Division or by a related party of the Division or a Divisional Branch of the Division.

“relevant remuneration” in relation to an Officer of the Division or a Divisional Branch of the Division for a disclosure period is the sum of the following:

- (i) any remuneration disclosed to the Division or a Divisional Branch of the Division by the Officer under Rule 54 during the disclosure period;
- (ii) any remuneration paid during the disclosure period, to the Officer by the Division or a Divisional Branch of the Division;

“remuneration” includes 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 or any Act replacing that Act;

“RO Regulations” mean the Fair Work (Registered Organisations) Regulations 2009 or any regulations replacing those regulations.

“the Divisional Rules” means the Rules of The Maritime Union of Australia Division ;

“the Division” means “The Maritime Union of Australia Division” known as the MUA Division;

“Union” means the Construction, Forestry, Maritime, Mining and Energy Union.

and



Words denoting the masculine gender shall include the feminine.

After Divisional Rule 68, insert new Divisional Rule 68A as follows, using ~~striketrough~~ for deletions and underlined for additions to the text of the current Rules of The Maritime Union of Australia Division [105N- MUA Certified 13 April 2021]:

**68A TRANSITIONAL RULE - DIVISIONAL ASSISTANT NATIONAL SECRETARY**

In accordance with Rule 47, the offices of Divisional Assistant National Secretary – Woman and Divisional Assistant National Secretary – Aboriginal and Torres Strait Islander shall commence on 1 July 2023.