



DECISION

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

Australian Business Industrial (R2021/229)

MURRAY FURLONG

MELBOURNE, 27 APRIL 2022

Alteration of other rules of organisation.

[1] On 24 December 2021 the Australian Business Industrial (the Organisation) lodged with the Fair Work Commission (the Commission) particulars of alterations to its rules.

[2] Further documents were lodged by the Association on 24 December 2021 in connection with the alterations.

[3] These included a declaration, dated 22 December 2021. The declaration addresses matters set out in Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009* (the Regulations).

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

[5] The particulars set out alterations to Rules:

- 1 – Interpretation
- 28 – Election of Council
- 30 – Eligibility for election
- 32 – Absent voting
- 34 – Notice of election by Returning Officer
- 36 – Nominations
- 41 – Scrutineers
- 45 – Office becomes vacant
- 53 – Powers of President, Vice President, Secretary/Treasurer and Council
- 55 – Calling meetings
- 56 – Voting
- 57 – Chairman
- 62 – Minutes of the Council and Committees and General Meetings
- 64 – Calling of General Meetings of ABI
- 67 – Chairman
- 68 – Voting procedure
- 69 – Poll
- 70 – Chairman’s casting vote
- 93A – Alternative means for conduct of meetings

- 94 – Extent of indemnity
- 95 – No liability for default

[6] A majority of the alterations have been made to introduce gender neutral expressions throughout the rulebook and are uncontroversial in nature. These include the alterations to Rules 1, 30, 32, 36, 41, 45, 53, 55, 57, 64, 94, and 95.

[7] Along the same vein as alterations incorporating gender neutral expressions, the title ‘Chairman’ has been changed to ‘Chairperson’ throughout the rulebook. These include alterations to Rules 56, 57, 62, 67, 68, 69, and 70.

[8] Other alterations, set out below, make more specific changes.

[9] The alteration to Rule 28 clarifies that Council Members shall be elected by the ABI membership in accordance with Rule 31.

[10] The alterations to Rule 34 amend the existing provisions for the publication of an election notice. Where previously it was required that the Returning Officer would be responsible for publishing the notice to a NSW circulating newspaper or sending by post, email or electronic means to all members, this responsibility now falls to the Organisation’s Council. The notice may be published on its website or any other public forum/platform deemed appropriate by the Council, and will also be sent by email (or other appropriate means) to the members.

[11] In addition to the abovementioned gender-neutral expression amendments to Rule 36 there are also specific amendments made. There is now a requirement that eligible members nominating for election to Council provide the full name of the corporate entity the candidate would be representing if elected. This provision, new sub-rule 36(b), also provides that a candidate is entitled to represent a corporate entity during the period that they own (in part or whole) the entity, or are a director, officer or employee of that entity or are otherwise an appointed nominee of the entity (where that appointment is in writing and not revoked).

[12] Further to the above, the alterations to Rule 36 include subsequent renumbering of other sub-rules and a provision that enables candidates representing eligible members to be nominate themselves for election to the Council.

[13] Rule 93A has been altered to expand the means by which meetings of the Executive Committee or the Council may be conducted to include in person, by telephone, videoconference, or other technology platforms.

[14] On 31 March 2022, Robert Kirkham, Secretary/Treasurer, gave consent, under subsection 159(2) of the *Fair Work (Registered Organisations) Act 2009* (the Act), for the General Manager to make various amendments to the alterations for the purpose of correcting typographical, clerical or formal errors. Accordingly the following corrections have been made:

- In proposed rule 36(b) the word ‘of’ between ‘officer’ and ‘employee’ in the second last line has been amended to ‘or’;
- Also in proposed rule 36(b) a closed bracket has been included immediately following the word ‘revoked’ and the full stop at the end of the sub-rule has been amended to a semi-colon; and
- In proposed rule 45(b), the full stop at the end of the sentence has been amended to a semi-colon.

[15] 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 and have been made under the rules of the organisation.



GENERAL MANAGER

Printed by authority of the Commonwealth Government Printer

<PR739977>