

**AUSTRALIAN PROPERTY  
SERVICES ASSOCIATION**

**CONSTITUTION AND RULES**

As at 1 March 2014

DELEGATE OF THE GENERAL MANAGER  
FAIR WORK COMMISSION

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## 1 Name

- 1.1 The name of the association is Australian Property Services Association.

## 2 Definitions and interpretation

- 2.1 In these rules, unless the contrary intention appears:

- (a) "Act" means *Fair Work Act 2009* (Cth) or *Fair Work (Registered Organisations) Act 2009* (Cth) whichever in the context applies
- (b) "annual subscription" means the annual subscription fee determined in accordance with these rules
- (c) "APSA" means Australian Property Services Association
- (d) "Association" means APSA
- (e) "Association journal" means a publication produced or adopted by the association and which is provided to members
- (f) "Board" means a group of persons who supervise, govern or otherwise have oversight of a corporation, organisation or other like body, including a Board of Directors
- (g) "Committee of Management" means the Federal Council as constituted in Rule 22
- (h) "councillors" means members who are elected to the Federal Council and who are not elected as Officers of the Federal Executive
- (i) "expense claim form" means the expense claim form as the Committee of Management may from time to time determine
- (j) "financial records of the association" means the following to the extent that they relate to finances or financial administration:
  - (1) a register
  - (2) any other record of information
  - (3) financial reports or financial records, however compiled, recorded or stored
  - (4) a document.
- (k) "joining fee" means the fee determined in accordance with these rules
- (l) "majority" means more than half the number of members, entitled to be present at a meeting, and present in person, or by proxy
- (m) "members" means the members, from time to time, of the association
- (n) "predecessor association" means the Property Sales Association of Queensland, Union of Employees and/or the Real Estate Association of New South Wales, organisations that are registered under the *Fair Work (Registered Organisations) Act 2009*
- (o) "present in person" means a person physically in attendance at a meeting, whether physically at the location of the meeting or where, in circumstances that these rules so provide, by telephone, radio, video-conferencing, or such other means as permit them to communicate with the other members in attendance at the meeting, without being physically present at the location of the meeting

- (p) “PSAQ” means the Property Sales Association of Queensland, Union of Employees, an organisation of employees registered under the *Fair Work (Registered Organisations) Act 2009*
- (q) “real estate industry” means the provisions of services associated with sales, acquisitions, leasing and/or management of residential, commercial, retail, industrial, recreational, hotel, retirement and any other leasehold or real property and/or businesses. Such services include:
- real estate agency;
  - business and hotel broking;
  - strata and community title management (or similar service however described);
  - stock and station agency;
  - buyers agency; and
  - real estate valuation.
- (r) “REANSW” means the Real Estate Association of New South Wales, an organisation of employees registered under the *Fair Work (Registered Organisations) Act 2009*
- (s) “reasonable expenses” means expenses of an amount not exceeding \$5,000.00 for any one item, the purpose of which must fall within rule 5 (Objects)
- (t) “related party” has the same meaning as defined by section 9B of the *Fair Work (Registered Organisations) Act 2009*
- (u) “relative” (in relation to a person) means a spouse, parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person.
- (v) “relevant remuneration” in relation to an officer of either the Association or a branch of the Association for a disclosure period is the sum of the following:
- (1) any remuneration disclosed to the Association and/or branch of the association by the officer under either or both of sub-rules 50 and 73; and
  - (2) any remuneration paid during the disclosure period to the officer of the Association and/or branch of the Association
- (w) “relevant non-cash benefits” in relation to an officer of the Association and/or branch of the Association for a disclosure period means the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer’s duties as an officer, by the Association and/or a branch of the Association and/or a related party of either the Association or branch of the Association
- (x) “remuneration” includes pay, wages, salary, fees, allowances, leave, benefits or other entitlements, but does not include any non-cash benefits
- (y) “rules” means the rules of the association
- (z) “special majority” means a two-thirds majority of the Committee of Management voting on a resolution being present in person, or by proxy
- (aa) “sub-committee” means a sub-committee established in accordance with these rules

- (bb) “sub-rule” means a sub-rule of these rules and a reference to a sub-rule shall be a reference to a particular sub-rule within that rule
- (cc) “video conferencing” means any system where, by the use of telecommunications devices and the transmission of voice and visual images, a number of persons are able to communicate and converse simultaneously without being physically present one with the other.

2.2 In interpreting these Rules, the following shall apply:

- (a) words importing the singular only shall include the plural and words importing the plural shall include the singular
- (b) words importing the masculine gender shall include the feminine gender
- (c) any by-laws that may be made pursuant to these rules, are to be read and interpreted so as to be consistent with these rules
- (d) a reference to the performance of a duty by an Officers of the Executive is inclusive of a reference to the Officers of the Executive causing the duty to be discharged and/or inclusive of the duty being discharged by any other Officers of the Executive holding the written delegation of the relevant Officers of the Executive
- (e) where any period of time, dating from a given day, act or event, is prescribed or allowed for any purpose, the period shall, unless the contrary intention appears, be reckoned exclusive of such day or the day of such act or event
- (f) where the last day of any period prescribed or allowed for the doing of anything falls on a Saturday or a Sunday or on a day which is a public holiday or a bank holiday in the place in which the thing is to be or may be done, the thing may be done on the first day following which is not a Saturday, Sunday or a public holiday or a bank holiday in that place
- (g) A reference to a function being carried out by the Treasurer is taken to be a reference to the officer performing the functions of the Treasurer, whether it is the Treasurer or, if no Treasurer has been elected, the Assistant Secretary-Treasurer of that Branch.

### **3 Industry description**

- 3.1 The industry is the real estate industry and property sector(s), whether corporation or non-corporation, corporate office or builder.

### **4 Eligibility**

- 4.1 An unlimited number of the following categories of persons throughout Australia are eligible to become members of the association:
- (a) those persons who are employed, usually employed, qualified to be and desirous of being employed, or seeking to be employed:
    - (1) in or in connection with the property sector
    - (2) in or in connection with the real estate industry, including but not limited to:
      - i. real estate agency
      - ii. business and hotel broking
      - iii. strata and community title management
      - iv. Buyers agency

- v. real estate valuation
  - vi. developers
  - vii. the provision of any other service that may be covered by the *Real Estate Award 2010* as varied from time to time.
- (3) by stock and station agents,  
other than clerical and administrative personnel.
- (b) persons whether engaged as aforesaid or not who are:
- (1) elected officers of the association
  - (2) appointed officers of the association.
- (c) persons engaged as independent contractors who, if they were an employee performing work of the kind which they usually perform as an independent contractor, would be eligible for membership of the association.

4.2 Notwithstanding any other provision of these rules, nothing shall render eligible for membership of this association any person who is eligible for membership of the following organisations:

- (a) the Construction, Forestry, Mining and Energy Union
- (b) the Registered Real Estate Salespersons' Association of South Australia

## 5 Objects

5.1 The objects of the association are to:

- (a) enrol in the association persons eligible to be its members
- (b) promote the interests of its members
- (c) consider, and where approved, offer practical assistance and support to members individually or collectively requesting such assistance where such assistance is sought in furtherance of these objects
- (d) provide such legal protection for its members in industrial matters, or other matters, as may be specifically authorised by the Committee of Management
- (e) affiliate with any body having like aims, memberships and objects on such terms and conditions as may be mutually agreed
- (f) acquire, by purchase or on lease, and to sell property, both real and personal
- (g) invest any monies of the association in any investment authorised by the laws of the relevant State, or by the Commonwealth of Australia, for the investment of trust funds and from time to time to vary or realise upon such investment
- (h) borrow money for the purpose of furthering the interests of the association and its members and to give security for such borrowings
- (i) impose and enforce levies to further the lawful purposes of the association in accordance with these rules
- (j) engage in enterprise, receive commissions, act as an agent or engage in other commercial activity authorised by the Committee of Management for the benefit of the association



- (k) employ staff, and engage such agents and consultants as may be required
- (l) ensure that conditions of employment adequately reflect the training and skills of its members and the conditions and circumstances in which its members are employed
- (m) advance and protect the vocational interests of members including seeking and maintaining representation on relevant authorities, committees and bodies
- (n) publish or contribute to the publication of an association journal, newspaper or other media
- (o) make financial provision for the carrying out of these objects
- (p) promote the policy of equality of status and opportunity for all of its members
- (q) adopt, promote and implement family-friendly policies for its members in their workplace
- (r) do all such things as may be necessary or incidental to the carrying out of these objects.

5.2 None of the objects expressed in this rule are to be read in such a way as to limit any other of those objects.

## **6 Powers**

6.1 The following powers may be exercised in the attainment of the objects of the association:

- (a) to provide funds from donations, levies, fines, contributions, fees, interest on capital and from any other moneys from which payment may be made for the purposes of the objects of the association
- (b) to invest funds, subject to obtaining appropriate security for that investment
- (c) to support co-operative ventures which are set up or which exist for purposes consistent with the objects of the association
- (d) to purchase, take on lease or in exchange, hire or otherwise acquire any real property, and in particular any land, buildings or easements for any purpose connected with the objects of the association and to improve any real property held by the association
- (e) to borrow or raise money in such manner as the association considers appropriate and to secure the borrowing or raising of money, the payment of money, the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the association in any way and to redeem or pay off such securities
- (f) 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 association
- (g) to enter into such contracts and agreements as are necessary for the purpose of carrying out the objects of the association
- (h) to undertake and do all such acts, matters and things as maybe necessary, incidental or conducive to the attainment of the objects of the association or any of those objects.

- 6.2 The association shall, without limitation to sub-rule 6.1, have in the attainment of its objects all the powers of an individual.
- 6.3 None of the powers provided for in sub-rule 6.1 is to limit any of the other powers provided for in sub-rule 6.1 and none of the powers provided for in sub-rule 6.1 is to limit any of the powers provided for by sub-rule 6.2.
- 6.4 Without limiting the powers expressed in sub-rules 6.1 and 6.2, the association shall achieve its objects by the application of all lawful means available to it including, without limitation, industrial, political and legal means.
- 6.5 Without limiting the powers expressed in sub-rules 6.1 and 6.2, the association shall provide such funds and resources as necessary for furthering its objects and any expenditure out of the funds of the association in furtherance of the achievement of any of the objects of the association shall be deemed to be part of the ordinary expenses of the association.

## **7 Registered office**

- 7.1 The registered office of the association is Suite 110, 29-31 Lexington Drive, Bella Vista NSW 2153, or at such other address as Federal Council, from time to time, determines.
- 7.2 The registered office of each branch of the association shall be at such place as that branch Committee of Management, from time to time, determines.

## **8 Branches**

- 8.1 The rules governing each branch are contained in rules 63 to 85.
- 8.2 The association is divided into branches. A branch consists of its foundation members and such other members who are or who become attached to the branch or have been transferred to the branch from another branch.
- 8.3 The branches of the association consist of members whose places of employment are in the States of New South Wales (which, for the purposes of these rules, incorporates the Australian Capital Territory), Queensland, and the remainder of Australia, which shall be named the National Branch.
- 8.4 Persons whose places of employment in Australia are not in the above-named State branches are members of the National branch of the association until Federal Council approves the establishment of a branch in the State or Territory in which they are employed. When membership in a State or Territory in the National branch reaches the quota set in sub-rule 22.4 the National branch may elect a delegate to Federal Council for each such quota. Such delegates shall have all the rights, entitlements and responsibilities of a Federal Councillor during the remainder of the term of office when elected. Thereafter sub-rule 22.4 shall apply. The National branch operates in the same manner as the other branches of the association.
- 8.5 When membership in a State or Territory that is part of the National branch reaches one hundred (100) persons, the Federal Council shall convene a meeting in that State or Territory of all such members, to create a new branch of the association in that State or Territory.
- 8.6 Each branch has the power to make rules for its own internal management including but not limited to finances, expenditure and investments in the name of the branch, payment of salaries and employment of staff. Each branch shall at all times conform to the rules of the association. If a rule of a branch is inconsistent with any rule of the

association the latter shall prevail and the former shall to the extent of the inconsistency be void.

- 8.7 Each branch has full autonomy in matters affecting members of that branch only and matters concerning the participation of the branch in any State industrial conciliation and arbitration system. The association shall only participate in the State systems of conciliation and arbitration or of wages boards or like systems to the extent that the participation of the association is requested by the branch of the association established in that State and where the association so participates the Secretary of the branch of the association established in that State shall be the person to sue or to be sued under the law of the State in respect of any acts or omissions arising from that participation.
- 8.8 If at any time Federal Council or Federal Executive is of opinion that the rules of a branch do not comply with the requirements of the Act, Federal Council or Federal Executive may call on the branch to bring its rules into conformity with the Act within a specified time. If at the end of the time specified the rules of the branch have not been so altered Federal Council or Federal Executive may make such alterations to the rules of the branch as will in its opinion bring them into conformity with the Act.
- 8.9 No branch shall affiliate with any national or international organisation or body or any branch, chapter or section thereof by whatever name called without the prior consent of Federal Council or Federal Executive.
- 8.10 Assets, income from assets and any other forms of income received by the branches shall remain the property of the branch concerned.

## **9 Admission to membership**

- 9.1 Federal Council or Federal Executive or each branch shall prescribe a form in which applications for enrolment as a member of the association shall be thereafter made.
- 9.2 Applicants for membership shall be informed, in writing of:
- (a) the financial obligations arising from membership
  - (b) the circumstances and the manner in which a member may resign from the association.
- 9.3 Application for membership, shall be made to:
- (a) the Federal Secretary; or
  - (b) the Branch Secretary of the branch in which the applicant works.
- 9.4 The Federal Secretary or Branch Secretary (as the case may be) shall forthwith enrol the applicant as a member of the association.
- 9.5 No error, omission or want of form in connection with any person's application for or admission to membership shall in itself invalidate membership and every person shall be deemed to be a member who has been acknowledged by the association to be a member of the association or its branches provided that Federal Executive may remove from the register the name of any person who has gained admission as the result of any irregularity provided further that any person so dealt with shall have a right of appeal to Federal Council.
- 9.6 Where an application for membership has not been dealt with or accepted within three (3) months from the date the application was received or where an application is rejected the applicant may appeal to Federal Executive. Where an appeal in relation to an application is rejected by Federal Executive, the applicant may appeal to Federal

Council whose decision shall be final. Any such decision by the Federal Executive and/or the Federal Council will be in accordance with the provisions of section 166 of the *Fair Work (Registered Organisations) Act 2009*.

- 9.7 Except as hereinafter provided a member shall be deemed to have become a member of the association as from the date of enrolment by the Federal Secretary or Branch Secretary, as the case may be, where the Federal Secretary or Branch Secretary has acted in the manner provided for in these rules.

## 10 Membership register

- 10.1 The association and each branch of the association shall keep a register of its members showing the name and postal address of each member and shall keep all such other records as are required to be maintained by organisations under the Act in the manner and at the place prescribed by the Act and any regulations made there under.

## 11 Purging the register

- 11.1 The Secretary shall regularly review the register of members kept in accordance with these rules and section 230 of the *Fair Work (Registered Organisations) Act 2009*, and to ensure that members who have resigned or whose membership has ceased for any other reason, are removed from the register, or alternatively, that the register is clearly marked with an indication that such person is no longer a member.

## 12 Resignation of membership

- 12.1 A member may resign from membership by written notice addressed and delivered to the Branch Secretary.
- 12.2 Notice of resignation from membership of the association takes effect:
- (a) where the member ceases to be eligible to become a member:
- (1) on the day on which the notice is received by the association
  - (2) 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:
- (1) at the end of two (2) weeks after the notice is received by the association
  - (2) on the day specified in the notice,
- whichever is later.
- 12.3 Any dues payable but not paid by a former member, in relation to a period before the member's resignation from the association took effect, may be sued for and recovered in the name of the association, in a court of competent jurisdiction, as a debt to the association.
- 12.4 A notice delivered to the person mentioned in sub-rule 12.1 shall be taken to have received by the association when it was delivered.
- 12.5 A notice of resignation that has been received by the association is not invalid because it was not addressed and delivered in accordance with sub-rule 12.1.

- 12.6 A resignation from membership of the association 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 association that the resignation has been accepted.
- 12.7 In special circumstances Federal Council may by resolution accept the resignation of a member and release the member from any or all outstanding obligations to the association, notwithstanding that the provisions of these rules have not been complied with.

### **13 Cessation of membership**

- 13.1 Notwithstanding any provisions elsewhere in these rules, a member shall cease to be a member when any of the following occur:
- (a) the member resigns
  - (b) the member dies
  - (c) when the member becomes ineligible for membership.
- 13.2 So there can be no doubt, a person who was a member shall cease to have any privileges of membership immediately upon the cessation of their membership, but shall remain indebted to the association for any dues payable but not paid in relation to a period before the cessation of membership and which may be sued by the association as a debt due to the association.
- 13.3 A member becomes ineligible for membership of the association when they no longer meet the conditions of eligibility for membership of the association.
- 13.4 A member who becomes ineligible for membership of the association shall within seven (7) days of the ineligibility for membership give written notice of the ineligibility and the reason for the ineligibility to the Secretary.
- 13.5 A notice delivered to the Secretary shall be taken to have been received by the association when it was delivered.
- 13.6 Where practicable, the Secretary shall promptly notify each person whose membership ceases pursuant to sub-rule 13.1(c), of the cessation of their membership stating the effective date of the cessation of membership and the reason for the cessation of membership.
- 13.7 Where a member's subscription has been in arrears for a period of three months, the Branch Secretary shall, in writing, notify the member of the arrears and require payment of same within fourteen (14) days, bringing to the member's attention, the provisions of sub-rule 13.2.
- 13.8 Where it comes to the attention of the Branch Secretary that a member whose subscriptions are paid by a system of payroll deductions has ceased to be eligible to become a member of the association and there were no monies due and owing to the association at the time the member ceased to be so eligible, the Secretary may deem that member to have resigned from membership and shall thereupon strike his or her name from the Register of members.
- 13.9 Membership in the association may also cease by forfeiture due to the operation of sub-rule 18.3 or by expulsion in accordance with rule 59 (Misconduct by members).
- 13.10 The cessation of a person's membership shall not affect his liability (if any) to the association or to the branch to which he is attached for unpaid dues, levies or other moneys.

## **14 Membership subscription, joining fee**

- 14.1 Federal Council may, from time to time, without reference to sub-rule 60.4 determine to charge the following:
- (a) an annual membership subscription
  - (b) in addition to an annual membership subscription, a joining fee payable by new members and/or to members who rejoin the association after their prior membership of the association has ceased.
- 14.2 Membership fees charged by a branch in excess of that charged by Federal Council shall be retained by the branch.

## **15 Entry fees and subscriptions**

- 15.1 Any entrance fees and subscriptions payable by members of the association shall be paid or remitted to and collected by the Treasurer or nominated officer of the branch in which they are enrolled.
- 15.2 Each Treasurer or nominated officer shall receive and deal with such moneys at all times in accordance with these rules.
- 15.3 All such moneys shall be deposited each quarter by the Treasurer or nominated officer to the credit of a bank account in the name of the Federal association and shall not be disbursed except in accordance with these rules.
- 15.4 All subscriptions shall fall due for payment as determined by Federal Council.
- 15.5 Any candidate for membership or member, the payment of whose subscription is the subject of an agreement in a form approved by Federal Council between his employer and the association or the officers of his branch whereby the employer agrees to deduct subscriptions from the salary of the candidate for membership or member and to pay the same into a bank account in the name of the branch of the association or to the branch, shall during the currency of such agreement be and be deemed to be for all purposes a financial member of the association.
- 15.6 If a Branch has combined the roles of Assistant Secretary and Treasurer, then all references in this Rule to "Treasurer" shall be taken to be read as "Assistant Secretary/Treasurer"

## **16 Membership fees and levies**

- 16.1 Each branch shall remit to the Federal Treasurer such amounts as are fixed by Federal Council under rule 14 (Membership subscription, joining fee).
- 16.2 Such payments shall be made quarterly on dates to be determined by Federal Council
- 16.3 Federal Council, and between meetings of Federal Council, Federal Executive, shall have the power to impose levies on the association's membership. Such levies shall be expressed as a percentage of the annual subscription rates determined by Federal Council for the year in which the levy is imposed.
- 16.4 The Federal Secretary shall notify all members of the association of the imposition of a levy and of the purpose for which the levy has been imposed.
- 16.5 Levies shall be payable not later than three (3) months after the date upon which the Federal Secretary gives notice of the imposition of the levy.

- 16.6 Levies exceeding in total one hundred percent (100%) of annual subscription rates in any calendar year shall not be imposed other than by resolution of Federal Council.
- 16.7 A member who fails to pay a levy within the time specified in this rule shall be deemed an unfinancial member until such time as the levy is paid.
- 16.8 Federal Executive may, upon application or of its own notion, waive payment of a levy either in whole or in part where satisfied that the circumstances of a member are such that waiver is justified.
- 16.9 Levies shall be paid by branches within three (3) months of the decision of Federal Council or Federal Executive being communicated to the Branch Secretary and shall be recovered as a debt due by each member at the date upon which the levy was imposed.

## **17 Unfinancial membership**

- 17.1 A member shall be unfinancial if the member is in arrears for any subscriptions, instalments or levies for a period exceeding three (3) months from the date on which the subscriptions, instalments or levies shall have first become due, and shall remain unfinancial until such time as all such subscriptions, instalments or levies shall have been paid.
- 17.2 An unfinancial member shall not be entitled to any of the rights of a financial member.
- 17.3 A member who is in arrears for any subscriptions or levies due to the association for more than six (6) months shall cease to be a member.

## **18 Unfinancial members**

- 18.1 An unfinancial member shall not be entitled:
  - (a) to any of the rights or privileges of membership
  - (b) to hold any office in or to nominate any person for election to any office in or to vote or otherwise participate in any way in any ballot or election in the association
  - (c) to vote or speak at any meeting of the association.
- 18.2 Where a member's subscription has been in arrears for a period in excess of three (3) months, the Branch Secretary shall, in writing, notify that member of the arrears and require payment of same within fourteen (14) days, bringing to the member's attention the provisions of sub-rule 18.1.
- 18.3 Where a member's subscription has been in arrears for a period in excess of six (6) months and that member does not within fourteen (14) days from the date of being notified of that arrears by the Branch Secretary, pay to the Treasurer all outstanding subscriptions, that member shall be deemed to have forfeited his membership in the association and his name shall be struck from the register of members.
- 18.4 For the purpose of this rule "subscription" means all or part of the annual subscription and any levy.

## **19 Rights of members**

- 19.1 Every financial member of the association shall have the rights accruing to members of a registered organisation under the Act and as determined by branch rules.

## 20 Governance

- 20.1 Always subject to rule 31 (Reviewing Federal Council decisions), the affairs of the association are governed by Federal Council which is the supreme governing authority and Committee of Management of the association.

## 21 Management

- 21.1 The day to day management of the association is vested in the Federal Executive.

## 22 Constitution – Federal Council

- 22.1 Federal Council consists of a member or members nominated and elected by each branch in accordance with sub-rules 22.2, 22.3 and 22.4, and any delegates from the National Branch as determined in accordance with sub-rule 8.4.
- 22.2 There shall be twelve (12) Federal Councillors to be elected at any general election of the association.
- 22.3 For the purpose of the first full election of Federal Councillors occurring after the date of the amalgamation of the association:
- (a) If the membership of the National Branch is fewer than 100 members, the number of Councillors to be elected by the Queensland branch shall be six (6), and the New South Wales branch six (6). National Branch shall provide a non-voting delegate to the Council in accordance with sub-rule 8.4
  - (b) If the membership of the National Branch is greater than 100 members, the number of Federal Councillors to be elected from each branch will be in accordance with subrule 22.4
- 22.4 The total number of Federal Council members that each branch is entitled to is based on the number of financial members of the association in that Branch. Each Branch shall have by right one (1) member on Federal Council. Additional representatives from each Branch will be determined by the following formula:

$$\begin{array}{l} \text{Proportion of Association's} \\ \text{total financial membership that} \\ \text{belong to the Branch} \end{array} \quad \times \quad \begin{array}{l} \text{Number of Federal Council} \\ \text{positions not allocated to a} \\ \text{Branch by way of right} \end{array}$$

The number of representatives will be rounded in such a way so that the number of Federal Council positions do not exceed 12

- 22.5 To be eligible for nomination to Federal Council a member shall have not less than two (2) years' financial membership of the Association at the close of nominations, or in the case of the first election, not less than two (2) years financial membership of the association and either of its predecessor associations at the time of the first election.
- 22.6 In the event of a casual or extraordinary vacancy arising in the office of delegate to Federal Council, the Branch Council or group which that delegate represents shall elect another delegate to fill the casual vacancy using as far as may be practicable the same mode of election as is prescribed by these rules for election of delegates to Federal Council, and any person so elected shall hold office for the unexpired portion of the term of the delegate he is elected to replace.



## **23 Constitution – Federal Executive**

- 23.1 Federal Executive is elected by and from the members of Federal Council every four (4) years.
- 23.2 Federal Executive consists of the Federal President, two (2) Federal Vice-Presidents, the Federal Secretary, the Federal Assistant Secretary and the Federal Treasurer (who are the Federal Officers).
- 23.3 The Federal President, Federal Vice-Presidents, Federal Secretary, Federal Assistant Secretary and the Federal Treasurer are deemed to represent on Federal Executive those branches of which they were members at the time of their election to those offices.
- 23.4 Should there be no Councillors elected from National Branch at the time of the first election of the Association, the position of Federal Assistant Secretary and Federal Treasurer shall be combined to form one position
- 23.5 No branch shall have more than two (2) Councillors elected as Federal Officers.
- 23.6 If more than two (2) candidates from a branch would, but for this rule, be elected as Federal Officers, then those two (2) candidates shall be elected to the two (2) more senior of the offices to which, but for this rule, the candidates from the branch would have been elected.
- 23.7 Any other office to which a candidate from the branch would have been elected but for this rule shall be filled by the candidate from another branch who receives the next highest number of votes for that office.
- 23.8 In the event of any casual or extraordinary vacancy occurring among the members of Federal Executive elected to represent branches, the casual vacancy shall be filled in accordance with rule 58.4.

## **24 Vacation of office**

- 24.1 The office of a member of Federal Council, Federal Executive, Branch Council or Branch Executive becomes vacant upon any one of the following:
- (a) the member's death
  - (b) receipt by the Federal Secretary of the member's written resignation
  - (c) the member's removal from office in accordance with Rule 25.

## **25 Removal from office**

- 25.1 A member of Federal Council or of Federal Executive shall not be removed from office unless he or she:
- (a) has been found guilty under the rules of:
    - (1) misappropriation of the funds of the association
    - (2) a substantial breach of the rules
    - (3) gross misbehaviour or gross neglect of duty.
  - (b) has ceased to be eligible to be a member of the association

- (c) has become bankrupt.
- 25.2 A person found guilty of a serious offence under these rules shall not be removed from office unless:
- (a) a resolution to that effect is passed at a meeting of Federal Council by a two-thirds majority of the members of Federal Council
  - (b) the person has been given at least fourteen (14) days notice of the date and place of the meeting setting out the resolution to be considered by the meeting; and
  - (c) he or she has been given by such notice the opportunity of being heard.
- 25.3 When a person is removed from office in accord with this rule the position shall be regarded as a normal vacancy and filled in accordance with the rules.

## 26 Powers and duties – Federal Council

- 26.1 Federal Council has the power and the duty to do all things necessary to achieve the objects of the association and to exercise all of the powers conferred upon the governing body of an organisation of employees registered under the Act and without limiting the generality thereof has power and duty to:
- (a) make, amend and rescind any of the rules of the association
  - (b) fix and from time to time vary any entrance fees and subscriptions payable by candidates for membership and members of the association
  - (c) fix and from time to time vary the amount and mode of payment by branches of capitation dues upon those dues becoming part of the General Fund and impose levies. Levies shall not be imposed except to provide for specific contingencies
  - (d) fix and from time to time vary any remuneration to be paid to any Federal Officer of the Association, and put any such decisions to the membership of the Association for approval
  - (e) pay the charges and expenses incidental to the promotion of the objects of the association
  - (f) take on lease, purchase or otherwise obtain, any office or building for the purpose of the association
  - (g) purchase, hire, or otherwise acquire any books, newspapers, documents, and other property necessary for the purposes of federation, and dispose of them, as may be deemed desirable in the interests of the association
  - (h) appoint as agent or employ any person whose service may be deemed necessary for the carrying out of the objects of the association and (except if that person is an elected officer) at any time suspend or discharge that person; or fix the remuneration to be paid to any person employed by the association
  - (i) investigate complaints and grievances, and take such action as required by these rules, or as may be otherwise deemed necessary in the interest of any of the members of the association; and to bring industrial disputes and claims before a tribunal
  - (j) invest, or place at fixed deposit with such bank or financial institution providing banking services as Federal Council may determine, any moneys of the General Fund

- not immediately required for the purposes of the association, in such manner as it may think fit, and to vary or realise such investments
- (k) direct the policy of the association in all matters affecting the interests of the members
  - (l) determine upon the form of any action deemed necessary in the interests of the general welfare of the association
  - (m) consider and decide allegations that offences have been committed under these rules and to admonish, fine, suspend or expel from membership any member found guilty of such an offence
  - (n) subject to the provisions of the Act as may be varied from time to time, make, vary or rescind on behalf of the association, industrial agreements; and submit industrial disputes to conciliation and arbitration in accordance with the policy and procedures of the Act
  - (o) remove from office any person elected to an office within the association who has been found guilty in accordance with these rules of a serious offence specified in these rules or has ceased in accordance with these rules to be eligible to hold office
  - (p) appoint a Returning Officer and Deputy Returning Officer, (who shall not be an officer or employee of the association) should Federal Council so decide
  - (q) appoint an auditor in accordance with the requirements of the Act
  - (r) enter into agreements with other organisations, in accordance with the objects of the Association
  - (s) develop and implement policies relating to the expenditure of the General Fund by the Association
  - (t) develop transitional Branch Rules for the National Branch and any new State or Territory Branch in accordance with these Rules
  - (u) facilitate the creation of new State Branches, in accordance with these Rules
  - (v) do all things necessary or convenient to the exercise of the foregoing powers and duties.

## **27 Powers and duties – Federal Executive**

- 27.1 Between meetings of Federal Council management of the association is vested in Federal Executive which has all the duties and powers of Federal Council except for the following powers and for the duties expressly and directly applying to the exercise of those powers:
- (a) fix and from time to time vary any joining fees and membership subscriptions payable by candidates for membership and members of the association
  - (b) fix and from time to time vary the amount and mode of payment by branches of capitation dues upon those dues becoming part of the General Fund
  - (c) make new rules and amend and/or rescind rules of the organisation
  - (d) consider and decide allegations that offences have been committed under these rules and to admonish, fine, suspend or expel from membership any member found guilty of such an offence

- (e) remove from office any person elected or appointed to an office within the association
  - (f) any power expressly reserved by Federal Council to itself.
- 27.2 Federal Executive shall furnish to each meeting of Federal Council, other than special meetings, a detailed report of the financial position of the General Fund.
- 27.3 Until branch elections are held in accord with the rules, Federal Executive will administer the National Branch of the association and is responsible for the allocation of work by Federal Officers. Subject to the approval of the relevant Branch Secretary, the Federal Secretary may request assistance of Branch Officers or employees to fulfil the objects of the association.
- 27.4 Where a branch officer is approved by the relevant Branch Secretary to perform work on behalf of the association or National branch they shall be paid their normal remuneration by the branch to which they belong. The branch may then recover from the association the rate set for such duties by Federal Council.

## 28 Meetings – Federal Council

- 28.1 Federal Council meets at least annually and, in addition, at such times as Federal Council itself deems necessary and, in addition, whenever a meeting of Federal Council is convened in accordance with sub-rules 28.4 and 28.5.
- 28.2 Federal Council may meet by assembly or by telephone, audio-visual or other similar mode of communication.
- 28.3 Any decision which under these rules made by Federal Council or Federal Executive in meeting assembled (including without limiting the generality of the foregoing the making of new rules and the amendment and/or rescission of any rule or rules by Federal Council) may be made by telephone, audiovisual communication or other similar means in accordance with this rule, and any decision so made shall be valid and effectual for all purposes.
- 28.4 Federal Executive by resolution in that behalf or the Federal President and Federal Secretary acting together has power to convene meetings of Federal Council and to determine when, where and for what purpose such meetings shall be held. At least fourteen (14) days notice of any meeting of Federal Council shall be given to each member of Federal Council and to each Branch Secretary by the fastest practicable means addressed to the respective addresses as appearing from the records of the association, or, where exceptional circumstances exist, not less than twenty-four (24) hours notice may be given, provided that in such circumstances the meeting is to be held by telephone or audiovisual means or other similar means.
- 28.5 Upon a request in writing made to the Federal Secretary by or on behalf of two (2) branches pursuant to a resolution of Branch Council of each such branch requesting that a special meeting of Federal Council be convened to transact the business set forth in the said special resolution the Federal Secretary shall convene a special meeting of Federal Council for a date not later than thirty (30) days from the date on which the request to the Federal Secretary was made. At least fourteen (14) days notice of any such meeting specifying the business of the meeting shall be given to each member of Federal Council and to each Branch Secretary by the fastest practical means to the respective addresses appearing from the records of the association.
- 28.6 Any item not requiring the exercise of Federal Council's powers (under sub-rule 27.1) may be placed on the agenda of any meeting of Federal Council by Federal Council, Federal Executive, any Federal Officer or any branch. Notice shall be given to the

Federal Secretary at least twenty-one (21) days prior to the date of such meeting. Each Branch Secretary and member of Federal Council shall be given at least fourteen (14) days written notice by the Federal Secretary of such agenda items. A member of Federal Council who wishes Federal Council to consider any such matter not on the agenda for that meeting may have such matter considered if Federal Council resolves to consider the matter by a resolution carried by an absolute majority of the votes exercisable at the meeting. The requirements of this sub-rule as to notice shall be directory and not mandatory and the accidental or inadvertent omission to give the full notice required to any person entitled to same shall not of itself invalidate the proceedings of Federal Council meeting at which such matter is considered.

- 28.7 Any items requiring the exercise of Federal Council's powers (under sub-rule 27.1) may be placed on the agenda of any meeting of Federal Council by Federal Council, Federal Executive, any Federal Officer or any branch. Notice shall be given to the Federal Secretary not less than twenty-one (21) days prior to the date of such meeting specifying the new rule, amendment or rescission sought or the resolution proposed. Each Branch Secretary and member of Federal Council shall be given not less than fourteen (14) days written notice by the Federal Secretary that such proposed new rule, amendment or rescission or other resolution is to be considered.

## **29 Conduct of meetings – Federal Council**

- 29.1 Federal Council shall adopt standing orders for the conduct of the business of its meetings, provided that such standing orders shall not be inconsistent with these rules.
- 29.2 Federal Council may by resolution vary standing orders from time to time and may suspend and resume the operation of standing orders during any meeting.
- 29.3 On the convening of Federal Council the Federal President or in his or her absence a Federal Vice-President or in the absence of both a delegate to Federal Council elected by the persons assembled for the meeting or participating by telephone, audio-visual or other means of communication, as the case may be, shall preside as Chairman.
- 29.4 At every meeting of Federal Council a quorum shall be one-half plus one, of those entitled to attend and vote at such meetings. Such attendance may be in person or participating by telephone, audio-visual or other means of communication, as the case may be. A person entitled to exercise a proxy vote in addition to his or her own vote shall be counted as a single attendance.
- 29.5 Notwithstanding any vacancies the powers of Federal Council may be exercised by a quorum of those entitled to vote at meetings.
- 29.6 Federal Council may grant leave of absence to any of its members for a period not exceeding twelve (12) months.
- 29.7 Except as otherwise provided by these rules, resolutions proposed at any meeting of Federal Council shall be decided by a simple majority of votes. Provided that where there is an equality of votes, the motion before the meeting shall be deemed to have been decided in the negative. All resolutions must be framed in plain English requiring a positive outcome.
- 29.8 For the making, alteration or repeal of any rule by Federal Council an affirmative vote by at least three quarters of those entitled to vote shall be necessary.

### **30 Minutes of meetings – Federal Council**

- 30.1 Within thirty (30) days of the closure of a meeting of Federal Council the Federal Secretary shall forward to each branch and to each member of Federal Council a copy of the draft minutes of that meeting.

### **31 Reviewing Federal Council decisions**

- 31.1 Any two (2) branches may within ninety (90) days of the rising of Federal Council by special resolution of their respective Branch Councils request a postal ballot of the whole of the financial membership of the association on any decision of Federal Council specified in that request. Any such ballot shall be conducted by the Federal Returning Officer at the expense of the branches requesting the ballot. The cost to each branch shall be in the proportion that the financial membership of each branch bears to the total financial membership of the branches requesting the ballot. The result of any such ballot shall be binding on Federal Council.
- 31.2 In the event that a request is made pursuant to sub-rule 31.1 that a decision of Federal Council concerning the making, alteration or repeal of any rule be the subject of a postal ballot under sub-rule 31.1, then an affirmative vote by an overall majority of all votes cast in the postal ballot and a majority of the votes cast in a majority of the branches shall be necessary for the decision to be approved and adopted.

### **32 Meetings – Federal Executive**

- 32.1 Federal Executive meets at least twice in each calendar year at a time and at a place or by any means of communication referred to in sub-rule 28.3 to be determined by the Federal Secretary after consultation with the Federal President.
- 32.2 Any decision which under these rules is made by Federal Executive in meeting assembled may be made by telephone, audiovisual communication or other similar means in accordance with this rule and any decision so made shall be valid and effectual for all purposes.
- 32.3 Special meetings of Federal Executive shall be convened:
- (a) whenever Federal Executive so determines
  - (b) whenever two (2) or more branches by special resolutions of their respective Executives so request and such special meetings shall be held within thirty (30) days of the receipt by the Federal Secretary of notice of the said special resolutions
  - (c) by decision of the Federal Secretary after consultation with the Federal President provided that such meeting shall not be held before a meeting which has previously been requested in accordance with sub-rule 32.3(b).
- 32.4 Subject to sub-rule 27.1, any item may be placed on the agenda of any meeting of Federal Executive by Federal Council, Federal Executive, any Federal Officer or any branch. The Federal Secretary shall give each Branch Secretary and member of Federal Executive not less than fourteen (14) days written notice of any item of which he has received at least twenty-one (21) days notice. Where exceptional circumstances exist, and in accordance with sub-rule 32.3(c), not less than twenty-four (24) hours notice may be given, provided that in such circumstances the meeting is to be held by telephone or audiovisual means or the ballot is to be held by facsimile. The requirements of this sub-rule as to notice are directory not mandatory and the accidental omission to give any notice required by this rule shall not invalidate any subsequent resolution of Federal Executive. Nothing in this sub-rule shall prevent Federal Executive dealing with a

proposal to place such an item on the agenda of a further meeting of Federal Council or Federal Executive or to submit such an item to a ballot under rule 62 (Members' plebiscite) or to refer such an item for consideration by the branches.

### **33 Conduct of meetings – Federal Executive**

- 33.1 Meetings of Federal Executive shall be conducted in accordance with the standing orders adopted by Federal Council, as varied from time to time by resolution of Federal Council.
- 33.2 Federal Executive may by resolution suspend or suspend and resume the operation of standing orders during any meeting.
- 33.3 On the convening of Federal Executive the Federal President or in his absence a Federal Vice-President or in the absence of both a delegate to Federal Executive appointed by the persons assembled for the meeting or participating by telephone, audio-visual or other means of communication, as the case may be for the meeting, shall preside as Chairman.
- 33.4 Notwithstanding any vacancies the powers of Federal Executive may be exercised by a quorum of those entitled to vote at meetings.
- 33.5 A quorum is fifty percent (50%) plus one of Federal Executive.
- 33.6 Federal Executive may grant leave of absence to any of its members for a period not exceeding twelve (12) months.
- 33.7 Except as otherwise provided by these rules, resolutions proposed at any meeting of the Executive shall be decided by a simple majority of votes. Provided that where there is an equality of votes, the motion before the meeting shall be deemed to have been decided in the negative. All motions must be framed in plain English requiring a positive outcome.

### **34 Minutes of meetings – Federal Executive**

- 34.1 Within thirty (30) days of a meeting of Federal Executive the Federal Secretary shall forward to each branch and to each member of Federal Council a copy of the draft minutes of that meeting.

### **35 Sub-committees**

- (a) The Federal Council may, from time to time, establish such sub-committees as it sees fit to further the work of the association
- (b) A sub-committee shall be comprised of such members of the Federal Council as the Federal Council shall determine, provided that the Federal President shall have the right to be a member of any sub-committee and shall, unless otherwise provided in these rules, be entitled to participate and vote
- (c) A sub-committee of the association shall also have the power to co-opt members, and such other persons as may contribute to the deliberations of the sub-committee
- (d) A sub-committee shall not have any of the powers of the Federal Council, but shall report to the Federal Council with suggestions and/or recommendations for consideration and/or determination by the Federal Council or the Federal Executive (as appropriate)
- (e) A sub-committee is responsible to, and under the control of, the Federal Council

- (f) Any sub-committee formed pursuant to this rule shall meet regularly, or as otherwise required by the Federal Council or the by-laws, and report to the Federal Council on its deliberations
- (g) The Federal Council may, from time to time, dissolve sub-committees
- (h) Any sub-committees of the association will meet in accordance with these rules and with any terms of reference set for the sub-committee by the Federal Council.

### **36 Proxy voting – Federal Council and Federal Executive**

- 36.1 A branch delegate to Federal Council or branch representative on Federal Executive who is unable to be present at the whole or any part of a meeting of Federal Council or Federal Executive may by writing or facsimile delivered to the Federal Secretary appoint a financial member of the Branch Council of the branch which the delegate or representative represents, to act as his or her proxy. A person appointing a proxy shall notify his or her Branch Secretary of the fact that such an appointment has been made. The Branch Secretary shall notify the Federal Secretary prior to the meeting of such proxy.
- 36.2 Each Branch Council may if it so decides confine the person or persons eligible for appointment as a proxy pursuant to this rule to such of the financial members of Branch Council as each Branch Council may by resolution appoint and may further provide the order in which such persons shall be eligible for appointment as a proxy if willing to act to ensure as far as possible that such proxy will be representative of the branch.
- 36.3 If no financial member of Branch Council be found willing to act for the branch delegate or branch representative or failing any appointment by such branch delegate or branch representative Branch Council may appoint any financial member of the association (including another delegate or representative from the same or a different branch) to act as proxy for the branch delegate or branch representative unable to be present.
- 36.4 A Branch Council may by resolution instruct a proxy delegate or proxy representative representing its branch delegates to Federal Council or its branch representatives on Federal Executive as to how each shall vote on a matter for determination by Federal Council or Federal Executive. A proxy delegate or proxy representative shall have all the powers of the person being represented but in exercising a vote he or she shall act in accordance with any direction given by Branch Council pursuant to this rule and, subject thereto, in accordance with any direction of the person being represented.
- 36.5 An existing delegate or representative who is appointed a proxy delegate or proxy representative shall be entitled to record a vote on behalf of the person he represents in addition to any vote he is entitled to cast on his own behalf.

### **37 Decisions by Federal Council or Federal Executive without meeting**

- 37.1 Any decision which under these rules may be made by Federal Executive or Federal Council at a meeting conducted pursuant to these rules may be made by post, facsimile or email, duly signed by the officer concerned in accordance with this rule, and any decision so made shall be valid and effectual for all purposes.
- 37.2 A postal, facsimile or email ballot shall be held whenever so decided by Federal Council, Federal Executive, the Federal President and Federal Secretary acting jointly or whenever requested of the Federal Secretary by any two (2) branches.
- 37.3 For the purpose of this rule each member of Federal Executive or Federal Council (as the case may be) shall be notified in writing, or where the ballot is to be conducted by



facsimile or email, by a telephone call or by fastest other practical means, of the content of the business upon which that member's vote is required together with advice of the period in which the member is to record a vote, and the means by which that vote is to be recorded.

- 37.4 Except as otherwise provided by these rules, a decision by postal ballot, by facsimile ballot or email ballot shall not be effective on any question unless the delegates voting include delegates from a majority of the branches and unless at least one half plus one of those entitled to vote exercise a vote thereon within the time appointed by the Federal Secretary or Federal President in forwarding the question upon which the member's votes are required.
- 37.5 A member of Federal Council or of Federal Executive, as the case may be, may exercise a vote in accordance with this rule by responding to the question notified pursuant to the sub-rule in writing, signed by the member and addressed to the Federal Secretary and forwarded by post, courier, facsimile transmission or email, or by delivery to the Federal Secretary in person; provided that where a vote is exercised by facsimile or email transmission the original writing signed by the member shall be forwarded to the Federal Secretary not later than twenty-four (24) hours thereafter by post, courier or delivery to the Federal Secretary in person.
- 37.6 Where a decision is made in accordance with this rule the Secretary shall give written notice of that decision to all members of Federal Council and of Federal Executive not later than seven (7) days after making the decision.
- 37.7 This rule shall be construed liberally so as to facilitate its operation as a means for obtaining prompt decisions of Federal Council and Federal Executive in matters in which it is or may be thought desirable to obtain decisions expeditiously, as a means of ensuring the effective ongoing management of the association and in matters in which a substantial degree of consensus is known or believed to exist among members of Federal Council and or Federal Executive.

## **38 Duties – Federal President**

- 38.1 The Federal President:
- (a) presides at and conducts meetings of Federal Council and Federal Executive and signs the minutes thereof
  - (b) in consultation with the Federal Secretary convenes meetings of Federal Council and Federal Executive
  - (c) exercises a deliberative vote only if the Federal President so desires at any meetings of Federal Council and Federal Executive
  - (d) is to be conversant with and ensure as far as possible that the rules of the association are performed and observed by officers and members of the association
  - (e) generally acts to safeguard the reputation, unity and property of the association.
- 38.2 The Federal President is to be an ex-officio member of any sub-committee of Federal Council or Federal Executive.
- 38.3 The duties of the Federal President are not of a full-time nature.

### **39 Duties – Federal Vice-President**

- 39.1 In the absence of the President a Federal Vice-President exercises all of the rights and performs all of the duties of the Federal President. Where two Vice Presidents are available to perform the duties of the President, one (1) shall be elected by the Federal Council or the Federal Executive or a duly constituted meeting of the association to perform the duties of the President, as required.
- 39.2 The duties of a Federal Vice-President are not of a full-time nature.

### **40 Duties – Federal Secretary**

- 40.1 The Federal Secretary:
- (a) attends meetings of Federal Council and Federal Executive and any committee of the association
  - (b) prepares and places before the Federal President and circulates in accordance with these rules an accurate agenda of the business to be transacted at each such meeting
  - (c) keeps accurate minutes of the business transacted at each such meeting and circulates such minutes in draft where required by these rules and presents a true copy of the minutes in each case to the subsequent meeting of the same body
  - (d) receives, replies to, files and reports upon all correspondence requiring attention
  - (e) informs the Federal President of any matters affecting or likely to affect the association or any branch and report thereon to Federal Executive and Federal Council
  - (f) ensures that all matters required to be attended to by organisations of employees registered under the Act are attended to within the times and in the mode prescribed in the Act and any regulation made thereunder
  - (g) notifies any industrial dispute and signs any process or document proper to be signed on behalf of the association by an officer thereof
  - (h) appears or to authorises another to appear before any Court, Commission or Industrial Tribunal or other body before which the association should be represented
  - (i) sues or accepts service or process on behalf and in the name of the association
  - (j) diligently and carefully carries out all the instructions of Federal Council and Federal Executive and reports to Federal Council and Federal Executive thereon
  - (k) sees to the prompt circulation of all agenda, notices and minutes by these rules required to be circulated
  - (l) generally pursues by all lawful means the objects of the association
  - (m) is the official Spokesperson of the Association.
- 40.2 The Federal Secretary is an ex-officio member of any sub-committee of Federal Council or Federal Executive.
- 40.3 With the approval of Federal Council, the Federal Secretary may delegate to another the performance of any of the duties set out in this rule. The existence of any such delegation shall not prevent the performance of a duty by the Federal Secretary either concurrently with or to the exclusion of the delegate.

40.4 The duties of the Federal Secretary are not of a full-time nature.

## **41 Duties – Federal Assistant Secretary**

41.1 The Federal Assistant Secretary assists the Federal Secretary to perform the duties of Federal Secretary and in the absence of the Federal Secretary or whenever the Federal Secretary requests or Federal Council or Federal Executive instructs him or her to do so shall perform the duties of the Federal Secretary or such of those duties as may be specified in such request or instruction.

41.2 The duties of the Federal Assistant Secretary are not of a full-time nature.

## **42 Duties – Federal Treasurer**

42.1 The Federal Treasurer:

- (a) is the accounting officer of the General Fund for the purpose of the Act
- (b) maintains accurately and in good order such financial accounting records as are required by the Act
- (c) receives, receipts and takes charge of all monies paid to the association and deposits same to the credit of such accounts of the General Fund as may be established at the direction of Federal Council
- (d) furnishes Federal Executive at the meeting next before each meeting of Federal Council, other than special meetings, a detailed report of the financial position of the General Fund and accompany such report with a statement of receipts and expenditure and of assets and liabilities
- (e) arranges for the accounts of the General Fund to be audited at least once in each financial year in accordance with the Act
- (f) subject to rule 45 (General Fund), makes payments on behalf of the association in accordance with these rules.
- (g) Is responsible for the development and implementation of policies relating to the expenditure of the General Fund by the association.
- (h) Prepares and compiles the disclosure to members of all matters in accordance with Rules 49 - 52
- (i) Ensures all officers of the Association and its branches whose duties relate to financial management have undertaken training in accordance with these Rules and relevant legislation

42.2 The duties of the Federal Treasurer are not of a full-time nature.

## **43 Notification of Industrial Dispute**

43.1 The Secretary may notify an industrial dispute to Fair Work Australia and shall notify members of the Executive Committee within seven (7) days thereof.

43.2 The Executive Committee may empower any person or persons to represent the association before any Industrial Tribunals, Commissions or Courts and may execute any documents or cause to be issued and served any plaint, document or process necessary for submitting the dispute to any Industrial Tribunal, Commissions or Courts and may file or lodge as the Rules of any Industrial Tribunal, Commissions or Courts prescribe all such documents required to be lodged or filed on behalf of the association.

## 44 Illness or incapacity of officers

- 44.1 Except as otherwise provided by these rules, Federal Council or Federal Executive may delegate to another member of Federal Executive or, if no such member is available or willing to accept the delegation, to a member of Federal Council, the powers and any of the duties of an officer who, in the opinion of Federal Council or of Federal Executive, is unable to perform the duties of the relevant office due to illness or incapacity.

## 45 General Fund

- 45.1 A fund shall be established, and known as the General Fund. Except as provided in this rule, the General Fund shall be managed and controlled in accordance with rules relating to the association as a whole.
- 45.2 The General Fund consists of:
- (a) any real or personal property of which the Federal Council by the rules or by any established practice not inconsistent with the rules has, or in the absence of any limited term, bailment or arrangement would have the right of custody, control or management
  - (b) the interests, rents, dividends or other income derived from the investment or use of the fund
  - (c) the capitation dues which become part of the General Fund by virtue of the operation of rule 16.
  - (d) the amount of any payments by branches of the whole or part of any entrance fees or levies to the fund as provided in these rules
  - (e) any monies subscribed by members or groups of members of particular purposes
  - (f) fines, donations, subsidies or ex-gratia payments made to the organisation
  - (g) any superannuation, long service leave or other funds operated or controlled in accordance with rules relating to the organisation as a whole for the benefit of its officers or employees
  - (h) any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated in accordance with rules relating to the organisation as a whole for the benefit of its members
  - (i) any property acquired wholly or mainly by expenditure of the monies of the General Fund or derived from other assets of the General Fund
  - (j) the proceeds of any disposal of part of the General Fund.
- 45.3 Federal Council or Federal Executive may by resolution from time to time authorise the disbursement of moneys held in the General Fund for the achievement of the objects of the association and for its administration.
- 45.4 Any two (2) members of Federal Executive may authorise monetary payments on behalf of the association, provided that the Federal President, Federal Secretary, a delegate of the Federal Secretary approved by Federal Council or the Federal Treasurer shall always be one (1) of those permitted to authorise monetary payments.
- 45.5 Monies held in the General Fund shall not be disbursed by any means other than by cheque, provided that the Federal Secretary may maintain a petty cash account at a level approved from time to time by Federal Council.

- 45.6 For the purposes of the general administration of the association, including payment of wages, salaries, honorariums, travel expenses, payroll deductions, Federal and State taxes, rates, rents, interest on loans, purchase of stationery, printing, hire of services, payment of agents and expenses of like kind reasonably incidental to the general administration of the association, the prior authority of Federal Council shall not be necessary before accounts are paid.

## **46 Investment of General Fund**

- 46.1 The General Fund may be invested in any manner approved by Federal Council from time to time.

## **47 Grants, donations and loans**

- 47.1 A grant or donation of an amount exceeding \$1,000.00 shall only be made by the association or Federal Executive or Branch Council or Branch Executive (whichever is the Committee of Management for the Branch) as the case may be once it has:
- (a) satisfied itself that the making of the grant or donation would be in accordance with the other rules of the association or of the branch as the case may be
  - (b) approved the making of the grant or donation.
- 47.2 Nothing in this rule applies to payments made by the association or a branch by way of provision for, or reimbursement of, out-of-pocket expenses incurred by persons for the benefit of the association or the branch as the case may be.
- 47.3 The association shall not make loans.

## **48 Financial year**

- 48.1 The financial year of the association shall terminate on 30 June in each year and all books and accounts for the year shall close on that day.
- 48.2 Expenses
- (a) Reasonable expenses incurred by members of the Committee of Management, and employees, whilst on approved association business, shall be reimbursed by the association.
  - (b) Such expenses may comprise:
    - (1) transport
    - (2) accommodation
    - (3) meals
    - (4) overnight allowance
    - (5) such incidentals, as determined from time to time by the Committee of Management.
- 48.3 The reimbursement of reasonable expenses shall only be as authorised by the Secretary.
- 48.4 Expenses, other than reasonable expenses, incurred by members of the Committee of Management, or employees, whilst on association business require the approval of the Committee of Management before reimbursement may be made.

- 48.5 To be clear, this rule has no application to, and does not limit, the Secretary's powers and duties as expressed in sub-rule 48.3.

## **49 Disclosure of Remuneration Paid to Officers**

- 49.1 Any officer of the Association, and any officer of any branch of the Association must disclose any remuneration paid to the officer:
- (a) because the officer is a member of a Board, if:
    - (1) the officer is a member of the Board only because the officer is an officer of the Association or a Branch of the Association; or
    - (2) the officer was nominated for the position of member of the Board by the Association, a Branch of the Association or a Peak Council to which the Association (or any of its Branches) is a member; or
  - (b) by a related party of the Association (including its Branches), in connection with the performance of the officer's duties as an officer of the Association or branch of the Association.
- 49.2 Such disclosure must be made as soon as practicable after the remuneration is paid to the officer.
- 49.3 The disclosure must be made in writing to the Federal Treasurer of the Association or, in the case of a disclosure by the Federal Treasurer, the Federal President.

## **50 Disclosure to members of remuneration paid to Officers**

- 50.1 The Association must disclose for each officer who, when all officers of the organisation are ranked by relevant remuneration for the disclosure period (from highest to lowest) is no lower than fifth:
- (a) The identity of each officer
  - (b) the officer's relevant remuneration for the disclosure period; and
  - (c) The total value of any non-cash benefits received by the officer including either the value of the non-cash benefits or the form of the non-cash benefits, for the disclosure period.
- 50.2 The disclosure period for the association shall be the association's financial year
- 50.3 The disclosure will be made to members within six months of the end of the financial year as a supplement to the financial reports.

## **51 Disclosure of material personal interests of officers and relatives**

- 51.1 Each officer of the Association must disclose any material personal interest in a matter that:
- (a) The officer has or acquires; or
  - (b) A relative of the officer has or acquires.

that relates to the affairs of the Association

- 51.2 All officers must make an initial declaration in writing to the Federal Council of any such material interest within three months of their elections as officers of the Association.

- 51.3 Officers must make any additional disclosures in writing to the Federal Council as soon as practicable after an interest is acquired
- 51.4 A list of all disclosures made within the disclosure period will be compiled and distributed to members within six months of the end of the financial year, as a supplement to the financial reports.
- 51.5 The disclosure period for the Association shall be the Association's financial year.

## **52 Disclosure of payments made by the association**

- 52.1 For the purposes of this Rule, a person or body is a declared person or body of the association if:
  - (a) An officer of the association has disclosed a material personal interest under the rules; and
  - (b) The interest relates to, or is in, the person or body; and
  - (c) The officer has not notified the association that the officer no longer has the interest
- 52.2 The association and the branches of the organisation must disclose to its members either:
  - (a) Each payment made by the association, during the disclosure period:
    - (1) To a related party of the organisation or of a branch of the organisation; or
    - (2) To a declared person or body of the association; or
  - (b) The total payments made by the Association, during the disclosure period
    - (1) to each related party of the association or a branch of the association; or
    - (2) to each declared person or body of the association
- 52.3 This subrule does not apply if the payment made to a related party if the payment consists of amounts deducted by the association from remuneration payable to officers or employees of the association
- 52.4 The disclosure period shall be the Association's financial year
- 52.5 A list of all disclosures made within the disclosure period will be compiled and distributed to members within six months of the end of the financial year, as a supplement to the financial reports.

## **53 Financial Training**

- 53.1 All officers of the association, including any officer of a branch, whose duties relate to financial management of the association must undertake training that covers each of the officer's financial duties.
- 53.2 Any training under this section meet any requirements for approval as set out by the General Manager of the Fair Work Commission
- 53.3 All training must be completed within six (6) months of the officer commencing to hold office.
- 53.4 Any officer whose duties relate to financial management of the association and holds office under the transitional arrangements set out in Rule 86 must undertake such

training within six (6) months of 29 June 2013, or have undertaken such training in accordance with their role in a predecessor organisation within six (6) months of 29 June 2013.

## **54 Auditor appointment**

- 54.1 The association and each branch shall appoint annually a competent person or a firm, at least one of whose personnel is a competent person, as auditor in accordance with the requirements of the Act and the regulations under the Act.
- 54.2 The accounts of the association and of each branch shall be audited at least annually by the auditor.
- 54.3 An auditor shall hold office until the appointment of his or her successor.

## **55 Accounts and books open to members**

- 55.1 The accounts and books of the association and of each branch shall be open for inspection by the members of the association at the place and time, and under such conditions not inconsistent with the provisions of the Act as Federal Executive or Federal Council may from time to time determine.

## **56 General Meeting of association – financial reports**

- 56.1 The Federal Secretary shall convene a meeting of the members of the association upon request in writing by not less than five percent (5%) of the members calling for a General Meeting for the purposes of considering the financial reports of the association as required by the *Fair Work (Registered Organisations) Act 2009*.
- 56.2 A request as referred to in sub-rule 56.1 is only valid if it:
  - (a) is signed by no less than five percent (5%) of the members of the association as at the date of receipt of the request
  - (b) contains in relation to each signature:
    - (1) the date of signing
    - (2) the signatory's name in capital letters
    - (3) the name of any branch to which the signatory is attached.
- 56.3 A General Meeting pursuant to this rule may be conducted as a series of meetings held at different locations.
- 56.4 All financial reports of the association received shall be compiled in accord with the Act, and shall be tabled at the next meeting of the Committee of Management.

## **57 Election – Federal Council delegates**

- 57.1 Each Branch Council elects every four (4) years by secret ballot from its own members the number of delegates to Federal Council to which it is entitled, pursuant to sub-rule 22.4, in the following manner:
  - (a) Within seven (7) days after the declaration of the poll for the election of members of Branch Council, the Branch Returning Officer will send by post to each Branch Council member a list of the names and postal addresses of the members of Branch Council, invite each of them to nominate in writing for a position of delegate to Federal



- Council, and specify a closing date not later than fourteen (14) days after the opening of nominations. A nomination need be signed only by the person nominating
- (b) The Branch Returning Officer will make arrangements for members who will be absent from their usual place of residence during the election to record an absent vote
  - (c) Every Branch Council member whose duly completed and signed nomination form is received by the Branch Returning Officer on or before the closing date specified above is a candidate for an office of delegate to Federal Council
  - (d) The Branch Returning Officer may reject any nomination which he or she finds to be defective, provided that before rejecting the nomination he or she shall notify the person concerned of the defect and where it is practicable to do so give that person the opportunity of remedying the defect within no less than seven (7) days after that person being so notified
  - (e) If there are not more than the required number of candidates duly nominated for the offices of delegates to Federal Council, then those candidates shall be declared elected to those offices.
  - (f) If there are more than the required number of candidates duly nominated for the offices of delegates to Federal Council from any branch, then within fourteen (14) days after the closing date specified as aforesaid the Branch Returning Officer shall send by post to each Branch Council member in the relevant branch:
    - (1) a ballot paper initialled by the Branch Returning Officer indicating that the offices in respect of which the election is to be held are delegates to Federal Council, stating the number of delegates that are required to be elected, and setting out the candidates for such positions; the date and hour for the closing of the ballot, which is not less than fourteen (14) days after the commencement of the ballot, and the address of the Branch Returning Officer for the return of the ballot paper
    - (2) an inner envelope complying with Regulation 5 of the *Fair Work (Registered Organisations) Regulations 2009*
    - (3) an outer postal prepaid envelope having endorsed on it the words "Branch Returning Officer" together with the name of the association and the address to which the ballot paper is to be returned.
  - (g) Branch Council members each vote by numbering the candidates' names in order of the voter's preference, the most preferred candidate having the number (1) and so on until all candidates' names are numbered in the order of the voter's preference.
  - (h) The ballot is counted in the presence of at least one (1) scrutineer and such other scrutineers who elect to be present. Those outer envelopes complying with the provisions of sub-rule 57.1(f)(3) are opened and the inner envelopes removed. When all such outer envelopes have been opened, the inner envelopes are opened, and the ballot papers removed, checked for validity and counted.
  - (i) In each election conducted under these rules:
    - (1) any candidate may appoint a scrutineer to represent that candidate at any step in the election
    - (2) the candidate appointing a scrutineer shall notify the Branch Returning Officer, in writing, of the name of such scrutineer

- (3) a scrutineer is entitled to be present at any step in the election and may query the inclusion or exclusion of any vote in the count, but the Branch Returning Officer has final determination of any votes so queried
  - (4) a scrutineer is not entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election.
- (j) The candidates to the required number with the highest number of votes after the successive distribution of the preferences of the candidates with the lowest number of votes are declared elected as delegates to Federal Council.
  - (k) No ballot paper is to be counted unless it is duly completed and is received by the Branch Returning Officer before the closing of the ballot inside the inner envelope which is inside the outer envelope, the flap of which must be signed by the voter.
  - (l) The candidate with the highest number of votes for a particular position after the successive distribution of the preferences of the candidates with the lowest number of votes is declared elected to that position.
  - (m) If the Branch Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused he or she shall supply (in the case of a damaged or misused ballot paper on receipt thereof) to the member of Branch Council to whom the original ballot paper was supplied a substitute ballot paper initialled by the Branch Returning Officer and the member of Branch Council may record his vote on the substituted ballot paper
  - (n) If a position of delegate to Federal Council has to be decided as between two (2) or more candidates who have received the same number of votes, then the Branch Returning Officer determines the successful candidate by lot in the presence of at least one scrutineer
  - (o) On the completion of the election the Branch Returning Officer declares the result of the election and sends a copy of that declaration to each member of Branch Council.
  - (p) The Branch Returning Officer thereafter delivers the ballot papers and outer envelopes to the Branch Secretary who keeps the same in safe custody in accordance with the requirements of the Act
  - (q) If less than two (2) nominations are received for the offices of delegates to Federal Council, the Branch Returning Officer advises the members of Branch Council of the fact and invites them again to nominate for the offices and conducts an election therefore in the same manner as provided in this sub-rule.
- 57.2 A delegate to Federal Council once elected subject to these rules holds office until a successor is elected and is deemed to be a delegate to each meeting of Federal Council held during his or her tenure of office as a delegate.

## **58 Election of Federal Officers**

- 58.1 The officers of the association are elected by secret ballot every fourth (4<sup>th</sup>) year by the delegates to Federal Council from among themselves in the following manner:
- (a) Within seven (7) days of the declaration of the poll in relation to the election of delegates to Federal Council, the Branch Secretary of each branch advise the Federal Secretary in writing of the names and postal addresses of the elected delegates of such branch

- (b) Within seven (7) days after the Federal Secretary has received the names and postal addresses of all the elected delegates, the Federal Returning Officer shall send by post to each of the elected delegates a list of the names and postal addresses of all the elected delegates and invite each of them to nominate in writing for any one or more of the offices of the association and shall specify a closing date for nominations not earlier than fourteen (14) days after the opening of nominations. A nomination need be signed only by the person nominating
- (c) The Returning Officer will make arrangements for members who will be absent from their usual place of residence during the election to record an absent vote
- (d) Every delegate whose duly completed and signed nomination form is received by the Federal Returning Officer on or before the closing date specified by him is a candidate for the office nominated in the form.
- (e) The Federal Returning Officer may reject any nomination which he or she finds to be defective provided that before rejecting the nomination he or she shall notify the person concerned of the defect and where it is practicable to do so give that person the opportunity of remedying the defect within seven (7) days of being so notified
- (f) A delegate may be a candidate for more than one (1) office
- (g) If there is only one candidate duly nominated for any office then that candidate is declared elected to that office. If there is more than one (1) candidate duly nominated for any office then within fourteen (14) days after the closing date specified as aforesaid the Federal Returning Officer shall send by post to every delegate:
  - (1) a ballot paper initialled by the Federal Returning Officer setting out the offices in respect of which the election is to be held and the candidates therefore and the date and hour for the closing of the ballot which shall be not less than fourteen (14) days after the commencement of the ballot, and the address of the Federal Returning Officer for the return of the ballot paper
  - (2) an inner envelope complying with Regulation 5 of the *Fair Work (Registered Organisations) Regulations 2009*
  - (3) an outer postal prepaid envelope having endorsed on it the words "Federal Returning Officer" together with the name of the association and the address to which the ballot paper is to be returned.
- (h) A delegate shall vote by numbering the candidates' names for each office in order of the voter's preference, the most preferred candidate having the number (1) and so on until all candidates names for each office are numbered in the order of the voter's preference
- (i) No ballot paper shall be counted unless it is duly completed and is received by the Federal Returning Officer before the closing of the ballot. The ballot paper is to be inside the inner envelope marked "Voting Paper" which shall be inside the outer envelope addressed to "Federal Returning Officer" the flap of which shall be sealed and signed by the person casting the vote.
- (j) In each election conducted under these rules:
  - (1) any candidate may appoint a scrutineer to represent him or her at any step in the election

- (2) the candidate appointing a scrutineer shall notify the Branch Returning Officer, in writing, of the name of such scrutineer
  - (3) a scrutineer shall be entitled to be present at any step in the election and may query the inclusion or exclusion of any vote in the count but the Returning officer shall have final determination of any votes so queried
  - (4) a scrutineer shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election.
- (k) The candidate with the highest number of votes for a particular position after the successive distribution of the preferences of the candidates with the lowest number of votes shall be declared elected to that position
- (l) If a candidate is elected (whether opposed or not) to more than one (1) office, the candidate shall be deemed to be elected to the more senior office only. The candidate's votes for the less senior office will then be distributed in accordance with the preferences as indicated on the ballot paper. The candidate with the highest number of votes for the less senior office after the successive distribution of the preferences of the candidates with the lowest number of votes shall be declared elected to that position.
- (m) For the purpose of sub-rule 58.1(l), the order of seniority shall be:
- (1) Federal President
  - (2) Federal Vice-President
  - (3) Federal Secretary
  - (4) Federal Assistant Secretary
  - (5) Federal Treasurer
- (n) If the Federal Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused he supplies (in the case of a damaged or misused ballot paper on receipt thereof) to the newly elected delegate to whom the original ballot paper was supplied a substitute ballot paper initialled by the Federal Returning Officer and the elected delegate may record his vote on the substituted ballot paper
- (o) If two (2) or more candidates receive the same number of votes for the same position then the Federal Returning Officer determines the successful candidate by lot in the presence of at least one (1) scrutineer
- (p) On the completion of the election the Federal Returning Officer declares the result of the election and sends a copy of that declaration to each member of Federal Council. The Federal Returning Officer thereafter delivers the ballot papers and outer envelopes to the Australian Electoral Commission
- (q) If no nomination is received for any office of the association the Federal Returning Officer advises each of the elected delegates of that fact and invites them again to nominate for such office and conduct an election therefore in the same manner as provided in this rule.
- 58.2 If upon the declaration of the result it then appears that any branch does not have a representative on Federal Executive, the Federal Returning Officer forthwith calls for nominations from the delegates representing that branch on Federal Council for a representative on Federal Executive and if within the time allowed by the Returning Officer more delegates than the number required advise in writing that they accept

nomination for the office of branch representative on Federal Executive, the Returning Officer forthwith proceed to hold a secret ballot of the delegates within seven (7) days of the declaration of the result representing that branch on Federal Council in accordance with these rules.

- (a) This subrule shall not apply in relation to the first election of the Federal Executive, if the National Branch has fewer than 100 members.

58.3 In the event of any casual or extraordinary vacancy occurring among the members of Federal Council, Branch Council from which the vacancy arose may appoint another member of Branch Council to fill the vacancy providing that the remainder of the term is less than three quarters. If the remainder of the term is greater than three quarters an election in accordance with rule 57 by and from Branch Council from which the vacancy arose must be held to fill the casual or extraordinary vacancy, the member then elected is to hold office for the unexpired portion of the term attached to that office.

58.4 In the event of any casual or extraordinary vacancy occurring among the members of Federal Executive, Federal Council may appoint another member of Federal Council to fill the vacancy providing that the remainder of the term is less than three quarters. If the remainder of the term is greater than three quarters a secret postal ballot of the whole of Federal Council must be held to fill the casual or extraordinary vacancy, the member then elected is to hold office for the unexpired portion of the term attached to that office.

## 59 Misconduct by members

59.1 Federal Council may consider upon its own notion and shall consider upon receipt of a written allegation whether a member has committed an offence under these rules.

59.2 An offence is committed under these rules where a member:

- (a) contravenes or fails to observe any of these rules and the nature of that contravention or failure is such that a substantial breach of the rules has occurred
- (b) misappropriates the funds of or converts to his own use the property of the association
- (c) indulges in gross misbehaviour
- (d) is in gross neglect of or has been in gross neglect of duty.

59.3 For the purposes of this rule a written allegation that a member has committed an offence shall:

- (a) be made by another member
- (b) specify the offence which it is alleged has been committed
- (c) give full particulars of the facts upon which the allegation is based.

59.4 Federal Council shall not upon its own notion embark upon a consideration of whether a member has committed an offence unless it has adopted a resolution:

- (a) naming the member alleged to have committed the offence
- (b) specifying the offence alleged to have been committed
- (c) giving full particulars of the facts upon which the allegation is based

- (d) specifying the date upon which Federal Council will consider the allegation, that date being not less than thirty-five (35) days from the date upon which the resolution is adopted.
- 59.5 Where the Federal Secretary or a Branch Secretary receives a written allegation that an offence has been committed or where Federal Council has adopted a resolution to consider of its own notion whether an offence has been committed, the Federal Secretary or Branch Secretary, as the case may be, shall not later than seven (7) days after the receipt of the allegation or of the decision by Federal Council, as the case may be, supply to the member alleged to have committed the offence a copy of the written allegation or a notification setting out the terms of the resolution adopted by Federal Council, as the case may be. Where the allegation is received by a Branch Secretary a copy shall forthwith be provided to the Federal Secretary.
- 59.6 All considerations as to whether an offence has been committed under these rules shall be conducted by Federal Council in meeting assembled.
- 59.7 Where Federal Council is to consider whether an offence has been committed the member to whom those considerations relate shall be given not less than twenty-one (21) days notice of the time and place at which Federal Council is to meet to consider the allegation. Where the allegation has been made in writing by another member, that member shall receive like notice.
- 59.8 Upon the question of whether an offence has been committed coming before Federal Council for consideration that the member against whom the allegation is made shall be given the opportunity to be present and may be accompanied by an adviser. Where the allegation has been made in writing by another member, that member shall also be given the opportunity to be present.
- 59.9 When considering whether an offence has been committed, Federal Council shall first receive submissions by the member alleging that an offence has been committed or, where the consideration takes place at the notion of Federal Council, from the Federal Secretary. It shall, thereafter, receive submissions from the member against whom the allegation is made. Submissions received by Federal Council may be presented either orally or in writing and may be supported by such documentation as is relevant to their contents. Any such submissions may be supported by the evidence of witnesses, provided that a witness shall only be permitted to be present at the meeting for the time during which the evidence of that witness is given. Federal Council shall thereafter decide whether an offence has been committed as alleged and, where an offence is found to have been committed, shall determine whether to admonish, fine, suspend or expel from membership the member found guilty of that offence.
- 59.10 Where Federal Council determines to impose a fine upon a member found guilty of an offence, the fine imposed shall not exceed the amount of the annual subscription payable by that member for that year.
- 59.11 Where a fine is imposed upon a member the member shall pay the fine to the Treasurer not later than twenty-one (21) days from the date upon which it is imposed. A member who fails to pay a fine within this period shall be deemed to be an unfinancial member until such time as the fine is paid.
- 59.12 Where Federal Council finds that an offence has been committed by a member who has been elected a member of Federal Council or of Federal Executive, it may call upon that person to show cause why he should not be removed from that office as provided in rule 25.
- 59.13 Any decision by Federal Council to admonish, fine, suspend or remove from membership pursuant to this rule shall require a two-thirds majority of the members of Federal

Council and shall be final. Nothing in this rule shall permit the removal from office of an elected official.

## **60 Amendment or rescission of rules**

- 60.1 Subject to sub-rule 60.4 Federal Council may make new rules and amend or rescind rules of the association.
- 60.2 Federal Council, Federal Executive, any Federal Officer or any branch may propose the making of a new rule or the amendment or rescission of a rule or rules of the association. Such a proposal is to be made in writing, setting out the new rule proposed or the amendments or rescission of the rule or rules proposed, as the case may be, and may be forwarded to the Federal Secretary at any time.
- 60.3 Notice is given in accordance with sub-rules 28.7 or 32.4.
- 60.4 For the making, alteration or repeal of any rule proposed by Federal Council, unless a seventy percent (70%) majority of the Federal Council approve, then a ballot of the association's financial membership shall be conducted by the association's Federal Returning Officer and an affirmative vote by the overall majority of votes returned shall be required for approval.

## **61 Common seal and mode of execution of documents**

- 61.1 The association has a common seal which shall be kept in the custody of the Federal Secretary and is affixed to documents requiring sealing only when authorised by resolution of Federal Council or Federal Executive.
- 61.2 Any document to which the seal is affixed is to be signed by two (2) members of Federal Council.
- 61.3 Documents not required to be under seal of the association may be executed on behalf of the association by the Federal Secretary whose signature is to be attested by one (1) other Federal Officer and any such document so executed is and is deemed to be executed on behalf of the association and with its authority.

## **62 Members' plebiscite**

- 62.1 A plebiscite of members or a class of members will be held on any question or questions when:
- (a) a petition setting out a question or questions upon which a plebiscite is sought and signed by ten percent (10%) of the financial membership, is received by the Federal Secretary; or
  - (b) Federal Council or Federal Executive so resolves.
- 62.2 Within fourteen (14) days of the adoption of the relevant resolution of either Federal Council or Federal Executive or of the receipt of the petition complying with the requirements of sub-rule 62.1, Federal Executive appoints a Returning Officer for the purpose of conducting the plebiscite. The Returning Officer is a person who is not an employee of and does not hold an elective office within the association.
- 62.3 The Federal Secretary notifies the Returning Officer of the question or questions to be put to a plebiscite of members or class of members not later than twenty-one (21) days after the adoption of the relevant resolution of either Federal Council or Federal Executive or of the receipt of a petition complying with the requirements of sub-rule 62.1.

- 62.4 The Returning Officer shall rent a Post Office box and deposit the key thereof with the manager of the Post Office at which the box is located together with written instructions that such key is only to be delivered to the Returning Officer in the presence of the Secretary and the scrutineer, where a scrutineer has been nominated, and after the date of the close of the ballot.
- 62.5 Not later than fourteen (14) days after receipt of notice from the Secretary with regard to the holding of a plebiscite, the Returning Officer shall forward to each eligible financial member of the association by post the following materials:
- (a) a ballot paper setting out the question or questions upon which the plebiscite is conducted. Such ballot paper shall be initialled on the back by the Returning Officer
  - (b) a plain envelope in which the ballot paper shall be sealed upon completion
  - (c) an outer prepaid post envelope addressed to the Returning Officer at the Post Office Box rented in accordance with this rule and bearing on the back provision for the member voting in the plebiscite to print his name and write his signature
  - (d) a statement setting out the date upon which the plebiscite shall close, being twenty-eight (28) days after the receipt by the Returning Officer of notice from the Secretary regarding the conduct of the plebiscite, together with the terms of sub-rule 62.6.
- 62.6 A member may record a valid vote in a plebiscite as follows:
- (a) the answer of the voter's choice to the question, or to such questions as the voter wishes to answer if there is more than one question, shall be marked on the ballot paper in the space provided
  - (b) the ballot paper shall be sealed in the plain envelope
  - (c) the plain envelope shall be placed in the prepaid post envelope addressed to the Returning Officer and that envelope shall be sealed
  - (d) the voter shall print his or her name and write his or her signature in the space provided on the back of the prepaid post envelope
  - (e) the prepaid post envelope shall be consigned by post to the Returning Officer at the address specified thereon.
- 62.7 The Returning Officer, as far as practicable, follows the procedures specified for the conduct of a ballot for the election of members of Federal Council when conducting a plebiscite.
- 62.8 Any decision made by a plebiscite of members is binding upon all members of the association, upon Federal Council and upon Federal Executive and, except where the plebiscite is conducted for the purpose of rule 86 (Transitional rules), remains in force until rescinded or amended by a subsequent plebiscite of members.

## **63 Establishing a new State Branch**

- 63.1 In accordance with sub-Rule 8.5, the Federal Council shall convene a meeting of members in any State or Territory within the National Branch when the membership of the Association within that State or Territory reaches 100, for the purposes of establishing a new Branch
- 63.2 At least fourteen (14) days written notice of the meeting must be circulated to members.



- 63.3 The sole business of the meeting shall be to determine whether a new State Branch will be established.
- 63.4 A quorum for such a meeting will be fifteen (15) per cent of the membership within that State or Territory. A simple majority of those members present shall be required to carry any motion that a new Branch be formed.
- 63.5 Once a motion is passed to establish the Branch, the Federal Council must:
- (a) Appoint a returning officer for the Branch in accordance with Rule 26;
  - (b) Set a date for the elections to be held, to be held not more than ten (10) weeks from the date of the meeting to establish the Branch;
  - (c) Determine the term of office for the inaugural Branch Council, so that elections will coincide with the elections to be held for all other Branches of the Association; and
  - (d) Determine whether the eligibility requirements to stand for election for both the Branch Council and any Branch Officer position will be waived or amended.
- 63.6 The election for the inaugural State Branch Council will otherwise be conducted in accordance with Rule 81 – Election of Branch Council

## **64 Branch rules**

- 64.1 Any branch may adopt rules and by-laws for its governance and management that are not inconsistent with these rules (save for Rule 80).
- 64.2 Where a branch has not adopted rules relating to any matter these rules apply “mutatis mutandis” for the purpose of governing and managing the affairs of the branch in relation to that matter.
- 64.3 Any rules so adopted by the branch must also comply with the provisions of the *Fair Work (Registered Organisations) Act 2009* with regard to the financial management of the Branch.

## **65 Branch Council**

- 65.1 The affairs of each branch are, subject to these rules and the relevant Branch Rules governed and managed by the Branch Council of the branch.

## **66 Branch Executive**

- 66.1 The rules of a branch may provide that the management of the branch are vested in a Branch Executive.

## **67 Constitution – Branch Council**

- 67.1 Branch Council consists of the Branch President, two (2) Branch Vice-President(s), Branch Secretary, Assistant Secretary and Treasurer who are the officers of the branch, and elected Councillors as required by the branch rules.

## **68 Constitution – Branch Executive**

- 68.1 Where the rules of a branch provide for its management by a Branch Executive, Branch Executive is constituted by the officers of the branch.

## **69 Powers and duties – Branch Council**

- 69.1 Branch Council:
- (a) has the power and duty to control and manage the business and affairs of the branch, subject always to these rules.
  - (b) fixes and from time to time varies any differential branch fee or levy payable by candidates for membership and members of the branch, over and above the membership subscription or joining fee set under rule 14 by Federal Council or membership subscription or joining fee set under sub-rule 27.1 by Federal Executive:
  - (c) appoints as agent or to employs any person whose service may be deemed necessary for the carrying out of the objects of the association and at any time suspends or discharges that person, (except an elected officer) and fixes the remuneration to be paid to any person employed by the association
  - (d) pays the charges and expenses incidental to the promotion of the objects of the association which are approved by Branch Council.
  - (e) pays to the General Fund on the appointed day membership fees and levies becoming part of the General Fund by virtue of the operation of sub-rules 16.1 & 16.2

- (f) appoints a Returning Officer and Deputy Returning Officer, (who shall not be an officer or employee of the association) should Branch Council so decide
- (g) appoints an auditor in accordance with the requirements of the Act
- (h) develops and implement policies relating to the expenditure of branch funds
- (i) determines, prior to each election for Branch Council, whether the next Branch Executive shall consist of one (1) or two (2) Vice-Presidents and whether the office of Assistant Secretary and Treasurer will be filled as separate offices or as a combined office
- (j) does all things necessary or convenient to the exercise of the foregoing powers and duties.

## **70 Powers and duties – Branch Executive**

- 70.1 Where the rules of a branch provide for its management by a Branch Executive, that Branch Executive has all the duties and powers of Branch Council except for the power to make, amend or rescind branch rules and for the powers expressly reserved by Branch Council to itself and for the duties expressly and directly applying to the exercise of those powers.

## **71 Meetings – Branch Council**

- 71.1 Branch Council meets at least quarterly and at such other times as Branch Council or Branch Executive deems necessary and is convened by a notice from the Branch President or failing that, a Branch Vice-President or failing that, the Branch Secretary.
- 71.2 At every meeting of Branch Council a quorum shall be one half plus one of those entitled to attend and vote and the attendance in person or by proxy of delegates from a majority of electorates where the rules of the branch provide for the division of the members of the branch into electorates. A person entitled to exercise a proxy vote in addition to his own vote is counted as a single attendance.
- 71.3 Upon the commencement of a meeting of Branch Council the Branch President or in that person's absence a Branch Vice-President or in the absence of both a delegate to Branch Council elected by the persons participating in the meeting presides as Chairman.
- 71.4 Branch Council may meet by assembly or by telephone, audio-visual or other similar makes of communication.
- 71.5 Any decision which under these rules may be made by Branch Council in meeting assembled (including without limiting the generality of the foregoing the making of new rules and the amendment and/or rescission of any rule or rules by Branch Council) may be made by telephone, audio-visual communication or other similar means in accordance with this rule, and any decision so made is valid and effectual for all purposes.
- 71.6 The Branch President and Branch Secretary acting together have power to convene special meetings of Branch Council and to determine when where and for what purpose such meeting takes place. At least seven (7) clear days notice of any such meeting is to be given to each member of Branch Council.
- 71.7 Where Branch Executive or any two (2) members of Branch Council acting together wish Branch Council, to make or to consider any addition to or amendment or rescission of any branch rule notice is to be given to the Branch Secretary at least fifteen (15) days

prior to the meeting of Branch Council at which the rule is to be considered specifying the new rule amendment or rescission sought and each member of Branch Council is to be given fourteen (14) days written notice by the Branch Secretary that such new rule amendment or rescission is to be considered by Branch Council.

- 71.8 Any item other than an addition to or amendment or rescission of any branch rule may be placed on the agenda of any meeting of Branch Council by Branch Council, Branch Executive, branch officers or any branch councillor. The Branch Secretary is to give each member of Branch Council not less than fourteen (14) days written notice of any such item of which he or she has received at least thirty (30) days notice, and these items shall be treated as motions on notice.
- 71.9 For the making alteration or repeal of any rule, an affirmative vote by at least three-quarters of those present and those represented by proxy is necessary, and in addition if the branch is divided into electorates, an affirmative vote by a majority of the members present in person or by proxy in a majority of the electorates is necessary.

## **72 Conduct of meetings – Branch Council**

- 72.1 The conduct of meetings of Branch Council will, as far as possible, conform with the provisions of rule 29.

## **73 Disclosure to members of remuneration paid to Branch Officers**

- 73.1 The Branch must disclose for each officer who, when all officers of the branch are ranked by relevant remuneration for the disclosure period (from highest to lowest) is no lower than second:
- (a) The identity of each officer
  - (b) the officer's relevant remuneration for the disclosure period; and
  - (c) The total value of any non-cash benefits received by the officer including:
    - (1) the value of the non-cash benefits
    - (2) the form of the non cash benefits
- 73.2 The disclosure period for the branch shall be the branch's financial year
- 73.3 The disclosure will be made to members within six months of the end of the financial year as a supplement to the financial reports.

## **74 Disclosure of material personal interests of officers and relatives**

- 74.1 Each officer of the Branch must disclose any material personal interest in a matter:
- (a) The officer has or acquires; or
  - (b) A relative of the officer has or acquires

that relate to the affairs of the Association and/or the Branch

- (1) A relative of the officer shall include a spouse, parent, step parent, child, stepchild, grandparent, grandchild, brother or sister of the person.
- 74.2 All officers must make an initial declaration in writing to the Branch Council of any such material interest within three months of their elections as officers of the Association.

- 74.3 Officers must make any additional disclosures in writing to the Branch Council as soon as practicable after an interest is acquired
- 74.4 A list of all disclosures made within the disclosure period will be compiled and distributed to members within six months of the end of the financial year, as a supplement to the financial reports.
- 74.5 The disclosure period for the Branch shall be the Branch's financial year.

## **75 Disclosure of payments made by a Branch**

- 75.1 For the purposes of this Rule, a person or body is a declared person or body of a branch if:
- (a) An officer of the Branch has disclosed a material personal interest under the rules; and
  - (b) The interest relates to, or is in, the person or body; and
  - (c) The officer has not notified the branch that the officer no longer has the interest
- 75.2 The branches of the organisation must disclose to its members:
- (a) Each payment made by the branch, during the disclosure period:
    - (1) To a related party of the branch; or
    - (2) To a declared person or body of the branch
  - (b) In relation to
    - (1) each related party of the branch; and
    - (2) each declared person or body of the branch

to which a payment was made by the branch during the disclosure period – the total of the payments made by the branch during the disclosure period to that related party or that declared person or body.

- 75.3 This subsection does not apply if the payment made to a related party if the payment consists of amounts deducted by the branch from remuneration payable to one or more officers or employees of the branch
- 75.4 The disclosure period shall be the branch's financial year
- 75.5 A list of all disclosures made within the disclosure period will be compiled and distributed to members within six months of the end of the financial year, as a supplement to the financial reports.

## **76 General meeting of branch – financial reports**

- 76.1 The Branch Secretary is to convene a meeting of the members of the branch upon a request in writing by not less than five percent (5%) of the members of the branch calling for a General Meeting of the branch for the purposes of considering the financial reports of the branch as described in the Act.
- 76.2 A request as referred to in sub-rule 76.1 is only valid if it:
- (a) is signed by no less than five percent (5%) of the members of the branch as at the date of receipt of the request

(b) contains in relation to each signature:

- (1) the date of signing
- (2) the signatory's name in capital letters.

76.3 A General Meeting pursuant to this rule may be conducted as a series of meetings held at different locations.

## **77 Meetings – Branch Executive**

- 77.1 Branch Executive meets at least quarterly between meetings of Branch Council and whenever required by the Branch President after consultation with the Branch Secretary.
- 77.2 Meetings take place at a time and at a place or by any means of communication referred to in sub-rule 32.2 as determined by the Branch President after consultation with the Branch Secretary.
- 77.3 The Branch Secretary gives each member of Branch Executive not less than seven (7) clear days notice of all items of business to be considered at a meeting of Branch Executive.
- 77.4 Where exceptional circumstances exist, not less than twenty-four (24) hours notice of a meeting of Branch Executive may be given, provided that in such circumstances the meeting is to take place by a means of communication referred to in sub-rule 32.4.

## **78 Conduct of meetings – Branch Executive**

78.1 The conduct of meetings of Branch Executive will, as far as possible, conform with the provisions of rule 33.

## **79 Proxy voting – Branch Council and Branch Executive**

- 79.1 The rules of a branch may provide for proxy voting on Branch Council and Branch Executive.
- 79.2 Where the rules of a branch provide for the division of the members of the branch into electorates for the purpose of electing the members of Branch Council, any rule providing for proxy voting shall require that a member of Branch Council not appoint as his or her proxy a member assigned to an electorate which did not elect that member of Branch Council.

## **80 Duties – Branch Officers**

80.1 If a Branch has adopted Rules or By-laws under Rule 64, setting out the Powers and Duties of its officers, those Rules shall prevail to the extent of any inconsistency with these Rules, save for any responsibilities of the Branch Treasurer to fulfil the financial accountability requirements set out in the *Fair Work (Registered Organisations) Act 2009* and as set out in these Rules

### **80.2 President**

- (a) The President shall preside at all meetings at which he/she is in attendance and shall have a casting vote only
- (b) The President shall decide all questions of order, enforce due obedience to the Branch Rules and sign the Minutes of Proceedings at all meetings of the Branch

- (c) Any other duties determined by the Branch Council

#### 80.3 Vice-President

- (a) A Vice-President shall preside at any meeting in the absence of the President. The Vice-President may exercise all powers of the President when presiding at any such meeting.
- (b) The Vice-President shall assist the President in the carrying out of the President's functions.

#### 80.4 Secretary

The Secretary:

- (a) records minutes of all meetings of the Branch, Branch Council and Branch Executive
- (b) conducts all correspondence in the name of the Branch
- (c) keeps the Register of the names and addresses of all members of the Branch
- (d) takes all necessary steps to carry out the directions of the Branch Council and the Branch Executive
- (e) has the authority to commence and/or represent the Branch in proceedings in any Court or Industrial Tribunal in matters concerning the Branch or its members
- (f) has the authority to enter into any agreement or undertaking on behalf of the Branch
- (g) ensures that the Branch complies with all requirements of registered organisations under any applicable legislation
- (h) assists the Federal Secretary to ensure that the Association complies with all requirements of registered organisations under any applicable legislation
- (i) any other functions or duties as determined by the Branch Council

#### 80.5 Assistant Secretary

- (a) The Assistant Secretary shall assist the Secretary to perform all or any of the duties of the Secretary.
- (b) The Assistant Secretary shall perform the duties of the Secretary in the absence of the Secretary.

#### 80.6 Treasurer

The Treasurer:

- (a) Receives, receipts and takes charge of all moneys due to the Branch and banks them in the account of the Branch
- (b) is the accounting officer of the Branch Fund for the purpose of the Act
- (c) maintains accurately and in good order such financial accounting records as are required by the Act
- (d) provides the Branch Council and the Branch Executive with regular and detailed reports of the financial position of the Branch Fund, and accompanies such reports with a statement of receipts and expenditure and of assets and liabilities

- (e) arranges for the accounts of the Branch Fund to be audited at least once in each financial year in accordance with the Act
- (f) makes payments on behalf of the association in accordance with these rules.
- (g) Is responsible for the development and implementation of policies relating to the expenditure of the Branch Fund by the association.
- (h) Prepares and compiles the disclosure to members of all matters in accordance with Rules 73 - 75
- (i) Assist the Federal Treasurer in the performance of his/her compliance with the financial accountability requirements contained in these Rules and the Act;
- (j) All of the functions of the Branch Assistant Secretary if the Branch Council determines that the office of Branch Assistant Secretary not be filled in accordance with Rule 69.

## **81 Election of Branch Council**

### **81.1 Call for election**

- (a) In the month of March in the year in which an election is to be held, the Branch Council shall make application to the relevant person or body specified in the Act for the making of arrangements for the conduct of election of Branch Office Holders in accordance with the Rules of the Association and the Act.
- (b) The Branch Council may, on its own motion, make application to any such relevant body for the Branch to conduct its own election.

### **81.2 Returning Officer**

- (a) The Branch Council shall appoint a Returning Officer for the Branch for the election of the Branch Council and/or, should the Rules of the Branch provide, the Branch Executive.
- (b) The Returning Officer shall not be an employee or member or officer in the association.
- (c) There is nothing within these Rules that shall prevent the Branch Council from appointing the relevant Electoral Commission as Returning Officer in the case of any election required under these Rules for the filling of any office or other position in the Branch.

### **81.3 Roll of voters**

- (a) The Roll of voters shall consist of all financial members of the Branch.
- (b) The Roll of voters shall close 14 days before the day on which nominations for the election open.

### **81.4 Nominations**

- (a) Nominations for all positions of the Branch Council shall be called by the Returning Officer who shall send to each member a notice setting out the positions to be balloted for and the opening and closing dates of nomination.
- (b) Candidates for the position of Branch Council shall have been financial members of the Association for at least one year prior to the date of the election



- (c) Candidates for the position of Branch President and Branch Secretary shall have served at least one term in any position of the Association's Branch Council or of the relevant Council or Executive Committee of a predecessor association
- (d) Candidates for positions on the Branch Council shall be nominated in writing by three (3) financial members of the Branch. The nomination shall be in writing, stating the name of the nominee, the position contested and the names of those members nominating the member and signed by all parties.
- (e) As soon as practicable following the close of nominations, the Returning Officer shall examine the records of the Association and where relevant certify the financial status of the nominee and the endorsees.
- (f) If the Returning Officer finds a nomination defective, the Returning Officer shall before rejecting the nomination, notify the person concerned of the defect and where practicable in the opinion of the Returning Officer to do so, give the nominee the opportunity of remedying the defect within such period as applicable under the rules, which shall where practicable be not less than seven (7) days after the nominee being so notified.

#### 81.5 Conduct of election

- (a) If there is only one (1) candidate duly nominated for any office then that candidate is declared elected to that office.
- (b) If there is more than one (1) candidate duly nominated for any office, the Returning Officer shall prepare ballot papers for a secret postal ballot, to be posted to the home address of eligible members of the Branch. The order in which the candidates' names shall be listed on a ballot paper shall be determined by lot by the Returning Officer.
- (c) The Returning Officer shall send by post to every eligible voter:
  - (1) a ballot paper initialled by the Returning Officer setting out the offices in respect of which the election is to be held and the candidates therefore and the date and hour for the closing of the ballot which shall be not less than fourteen (14) days after the commencement of the ballot, and the address of the Returning Officer for the return of the ballot paper
  - (2) an inner envelope complying with Regulation 5 of the *Fair Work (Registered Organisations) Regulations 2009*
  - (3) an outer postal prepaid envelope having endorsed on it the words "Branch Returning Officer" together with the name of the Branch of the association and the address to which the ballot paper is to be returned.
- (d) The ballot paper shall be returned and received by the Returning Officer no later than the 2<sup>nd</sup> Friday in September in the year in which an election is to be held.
- (e) If a member is entitled to vote at any election held under these rules will be absent from the members home address during the ballot, such member may apply to the Returning Officer for a ballot paper sent to an address such member nominates.
- (f) If the Branch Returning Officer is satisfied that a ballot paper has been destroyed, lost, damaged or misused he or she shall supply (in the case of a damaged or misused ballot paper on receipt thereof) to the member to whom the original ballot paper was supplied a substitute ballot paper initialled by the Branch Returning Officer and the member may record his or her vote on the substituted ballot paper

- (g) As soon as practicable after the close of the ballot the Returning Officer shall collect all ballot papers and proceed to count the ballot.
- (h) The ballot is counted in the presence of at least one (1) scrutineer and such other scrutineers who elect to be present. Those outer envelopes complying with the provisions of sub-rule 72.5(c)(3) are opened and the inner envelopes removed. When all such outer envelopes have been opened, the inner envelopes are opened, and the ballot papers removed, checked for validity and counted.
- (i) In each election conducted under these rules:
  - (1) any candidate may appoint a scrutineer to represent that candidate at any step in the election
  - (2) the candidate appointing a scrutineer shall notify the Branch Returning Officer, in writing, of the name of such scrutineer
  - (3) a scrutineer is entitled to be present at any step in the election and may query the inclusion or exclusion of any vote in the count, but the Branch Returning Officer has final determination of any votes so queried

a scrutineer is not entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election

- (j) The scrutineer shall conform with any times fixed by the Returning Officer for the conduct of any step in a ballot and shall not be entitled to remove, alter or deface any ballot paper or obstruct the Returning Officer in any way.
- (k) Unless the rules of the Branch otherwise provide, the order of election shall be: President, Vice President, Secretary, Assistant Secretary, Treasurer, Council member
- (l) If a candidate is standing for more than one (1) office, that candidate upon obtaining the higher number of votes to an office in accordance with the order of election shall be declared elected to that office, and that candidate shall not be further considered. Any votes in favour of that candidate for any office will then be distributed further down the order of election in accordance with the preferences expressed on the ballot paper.
- (m) In the event of an equality of votes between two or more candidates, the Returning Officer shall determine the issue by lot.
- (n) The results of the elections will be declared at the Annual General Meeting of the Branch, which must be held within 30 days of the date by which ballot papers were returned.

#### 81.6 Casual Vacancies

- (a) If a vacancy occurs on Branch Council, including any vacancy in any office under the Rules, within the first quarter of a term of office by way of death, resignation, or by the removal of the member in accordance with Rule 25, it shall be filled by an election conducted in accordance with these Rules, provided that a person may act in the position until such election occurs.
- (b) If a vacancy occurs on Branch Council after the first quarter of a term has expired, Branch Council may appoint a member to the vacant position, provided that the member meets any membership qualifications required for election to the position.

## **82 Branch Fund**

- 82.1 Each branch shall have a fund of the particular branch known as the Branch Fund. Except as provided in this rule, the Branch Fund shall be managed and controlled in accordance with rules of that branch.
- 82.2 A Branch Fund consists of:
- (a) any real or personal property of which the branch of the association 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 on behalf of the association
  - (b) any interest rents or dividends derived from the investment of the fund
  - (c) any superannuation or long service leave fund operated or controlled by the branch for the benefit of its officers or employees
  - (d) any sick pay fund, accident pay fund, funeral fund, benefit fund or like fund operated or controlled by the branch for the benefit of its members
  - (e) any property acquired wholly or mainly by expenditure of the moneys of the fund or derived from other assets of the fund
  - (f) the proceeds of any disposal of parts of the fund
  - (g) any monies subscribed for the purposes of the activities of Group Committees established pursuant to rule 83.
- 82.3 Rules relating to the management of a Branch Fund may not be altered except with the consent of the branch concerned.
- 82.4 The Branch Fund may be invested in any manner approved by Branch Council or Branch Executive from time to time.
- 82.5 Branch Council or Branch Executive may, by resolution from time to time, authorise the disbursement of moneys standing to the credit of the Branch Fund for the achievement of the objects of the association and for its administration.
- 82.6 Any two (2) members of Branch Executive may authorise monetary payments on behalf of the association provided that the Branch Secretary or in his or her absence the Branch Treasurer shall be one (1) of those permitted to authorise monetary payments.

## **83 Common seal and mode of execution of documents – branches**

- 83.1 Each branch has a common seal the same shape and form as the seal of the association except that the name of the branch will be inserted therein.
- 83.2 The seal is kept in the custody of the Branch Secretary and is to be affixed to documents requiring sealing and authorised by resolution of Branch Council or Branch Executive.
- 83.3 Any document to which the seal is affixed is to be signed by two (2) members of Branch Council or Branch Executive.
- 83.4 Industrial agreements and other documents may be executed by or on behalf of the branch by affixing the seal of the branch thereto.

## 84 Branch members' plebiscite

- 84.1 Ten percent (10%) of the financial membership of the branch may by signing a requisition or requisitions in common form in that behalf require that a postal ballot of all financial members of the branch be held on any question set out in the requisition.
- 84.2 Upon receipt of a requisition or requisitions in common form from not less than ten percent (10%) of the then financial membership of the branch the Branch Secretary will at once request the Branch Returning Officer to hold a postal ballot of all financial members of the branch.
- 84.3 The ballot shall be held so as to conclude within four (4) weeks of the date of the Branch Secretary's request.
- 84.4 The result of the ballot, subject to these rules, binds all members of the branch.

## 85 Group Committees

- 85.1 For the purposes of managing the affairs of the branch either Branch Council or Federal Executive may establish committees to represent groups of members with shared industrial interests. Such committees shall be known as Group Committees.
- 85.2 Any member of Branch Council having the relevant industrial interest shall be an ex-officio member of any Group Committee formed pursuant to this rule.
- 85.3 In giving effect to any decision to establish a Committee in accordance with this rule, the Branch Secretary appoints a person to convene a meeting of the relevant group of members, upon fourteen (14) days notice in writing to each such member, for the purpose of determining the composition of the Committee and thereafter, to arrange for the selection of persons from amongst the members of the relevant group to assist the ex-officio members of the Group Committee in representing the industrial interests of the members of the group to Federal Council and Federal Executive.
- 85.4 Selection of members of Group Committees take place at intervals not exceeding two (2) years and is arranged in the manner set out in sub-rule 85.3.
- 85.5 Group Committees at all times act in accordance with these rules and comply with policies and decisions from time to time made by Federal Council and/or Federal Executive.
- 85.6 A Group Committee may obtain from the group of members represented by the Committee monies additional to the subscriptions determined from time to time and to any levies imposed from time to time pursuant to these rules.
- 85.7 Monies subscribed to a Group Committee in accordance with sub-rule 85.6 will be maintained in a separate account in the name of the Group Committee and shall be dispersed and dealt with by the Group Committee in accordance with the general procedures established by the relevant branch pursuant to rule 82 provided that those permitted to authorise such payments are any two (2) of the ex-officio members of the Group Committee.
- 85.8 Group Committees maintain accounting records complying in all respects with the requirements of the Act and such records are audited annually by the branch auditor. Monies subscribed to each Group Committee in accordance with sub-rule 85.6 are brought to account as separate items forming part of the Branch Fund.
- 85.9 Monies subscribed to a Group Committee in accordance with sub-rule 85.6 are expended only for the particular purpose of advancing the industrial interests of the

group of members represented by that particular Group Committee, which interests include the meeting of administrative costs associated with the functioning of the Group Committee, and are expended for no other purpose without the express approval of a meeting of the relevant group of members held upon fourteen (14) days notice in writing to each such member from the Branch Secretary at the direction of Branch Executive.

- 85.10 For the period of operation of Rules 86 - 88 (The transitional Rules), no resolution of Federal Council is effective to disband the Group Committees referred to herein unless either:
- (a) a resolution has been adopted by the Group Committee requesting Federal Council to adopt a resolution disbanding the Committee and, upon that request being considered by Federal Council, an affirmative resolution of Federal Council is adopted upon that request with the members of Federal Council who are ex-officio members of the Group Committee voting in favour of that resolution
  - (b) legislative or administrative action by the Crown has caused a substantial majority of the members whose industrial interests are represented by the Group Committee to be no longer eligible for membership in the association and a resolution has first been adopted by Federal Council that the rules of the association not be amended so as to enable those persons or class of persons to again become eligible for membership.
- 85.11 Where an effective resolution for the purposes of sub-rule 85.10 has been adopted, the Branch Secretary within twenty-one (21) days of its adoption appoints a person to convene a meeting of the relevant group of members for the purpose of determining the views of the members as to which of the existing Group Committees should in future represent their industrial interests to Branch Council and Branch Executive.
- 85.12 Within twenty-one (21) days of appointment pursuant to sub-rule 85.11, a person so appointed convenes a meeting as required by that sub rule and within seven (7) days thereafter supplies to the Branch Secretary a report as to the views of the members expressed at that meeting.
- 85.13 The Branch Secretary places any report made pursuant to sub-rule 85.12 before the next meeting of Branch Executive which, having regard to the views of the members set out in the report, determines which of the existing Group Committees is in future to represent the industrial interests of the members in question to Branch Council and Branch Executive members.

## 86 Transitional rules - Amalgamation

- 86.1 Notwithstanding anything to the contrary contained in these rules, the following apply as transitional rules.
- 86.2 Once amalgamation takes effect each predecessor association taking part in the amalgamation is regarded as a branch of the new association.
- 86.3 On the date of amalgamation:
- (a) The REANSW will be deemed to be the New South Wales Branch of the APSA
- (1) The Rules of the REANSW will become the Branch Rules of the APSA NSW Branch, in accordance with Rule 64 of the APSA Rules.
  - (2) The Executive Committee of the REANSW will be deemed to be the Branch Council of the New South Wales Branch and will be the supreme governing body of the Branch
  - (3) The President of REANSW will become President of the NSW Branch
  - (4) The Vice President of REANSW will become Vice-President of the NSW Branch
  - (5) The Secretary of REANSW will become Secretary of the NSW Branch
  - (6) The Assistant Secretary of REANSW will become Assistant Secretary of the NSW Branch
  - (7) The Treasurer of REANSW will become Treasurer of the NSW Branch
  - (8) It will be deemed that the above listed members of the Executive Committee of the REANSW shall become the Branch Executive of the APSA NSW Branch and the officers of the APSA NSW Branch for the purposes of proposed Rules 67 and 70; and
  - (9) Each ordinary member of the REANSW Executive Committee will become members of the NSW Branch Council
- (b) The PSAQ will be deemed to be the Queensland Branch of the APSA
- (1) The Rules of the PSAQ will become the Branch Rules of the APSA Queensland Branch, in accordance with Rule 64 of the APSA Rules;
  - (2) The Committee of Management of PSAQ will become the Branch Council of the APSA Qld Branch and will be the supreme governing body of the Branch.
  - (3) The Association Executive of the PSAQ will become the Branch Executive of the APSA Qld Branch
  - (4) The President of the PSAQ will become President of the Queensland Branch
  - (5) The Vice Presidents of the PSAQ will become Vice Presidents of the Queensland Branch
  - (6) The Secretary of the PSAQ will become Secretary of the Queensland Branch
  - (7) The Assistant Secretary of the PSAQ will become Assistant Secretary of the Queensland Branch

- (8) The Treasurer of the PSAQ will become Treasurer of the Queensland Branch
- (9) Each ordinary member of the PSAQ Committee of Management will become members of the Queensland Branch Council

86.4 On the date of amalgamation

- (a) All members of the REANSW will be deemed to be members of the New South Wales Branch of the APSA
- (b) All members of the PSAQ will be deemed to be members of the Queensland Branch of the APSA

86.5 On the date of amalgamation:

- (a) All assets, including but not limited to cash, accounts with financial institutions, securities, negotiable instruments, real property and chattels that are held by and in the name of the PSAQ shall be deemed to form the APSA Qld Branch Fund
- (b) All assets, including but not limited to cash, accounts with financial institutions, securities, negotiable instruments, real property and chattels that are held by and in the name of the REANSW shall be deemed to form the APSA NSW Branch Fund
- (c) All membership dues or income that was previously paid to the PSAQ shall be paid into the APSA Qld Branch fund;
- (d) All membership dues or income that was previously paid to the REANSW shall be paid into the APSA NSW Branch fund
- (e) The APSA General fund will be established
- (f) The National Branch fund will be established

## **87 Transitional Rules – Federal Council**

87.1 The transitional rules apply immediately amalgamation takes effect until the first meeting of the inaugural elected Federal Council.

87.2 The Transitional Federal Council comprises:

- (a) The President of the REA NSW is Acting Federal President
- (b) The President of PSAQ is Acting Federal Vice President
- (c) The Secretary of REA NSW is Acting Federal Secretary
- (d) The Secretary of the PSAQ is Acting Federal Assistant Secretary
- (e) The Treasurer of REANSW and the Treasurer of the PSAQ are joint Acting Treasurers
- (f) Six (6) councillors – three (3) nominated by and from the PSAQ Committee of Management (including the Vice-President of the PSAQ); and three (3) nominated by and from the REANSW Executive Committee.

87.3 The transitional Federal Council comprises the persons who are elected by those branches to Federal Council in accordance with rule 57. Such elections are to be held by each branch as if a branch election had occurred on the date an amalgamation takes effect.

87.4 The inaugural elected Federal Executive are to be elected in accordance with rule 58.

- 87.5 The Secretary of the Real Estate Association of New South Wales, who is the Acting Federal Secretary, is responsible to comply with rule 58 as if branch elections had occurred on the date the amalgamation takes effect.

## **88 Transitional Rules – National Branch Council**

- 88.1 Notwithstanding anything to the contrary contained in these rules, the following apply as transitional rules.
- 88.2 The transitional rules apply immediately amalgamation takes effect until the declaration of the election of the inaugural National Branch Council
- 88.3 The elections for the inaugural National Branch Council shall proceed in accordance with Rule 81 – Branch Elections, save for the following:
- (a) The election of the inaugural National Branch Council shall coincide with the election of the inaugural Federal Council;
  - (b) The term of the inaugural National Branch Council shall be set by the Federal Council prior to the calling of the election, having regard to the desirability of having elections for all Branch Councils of the association to occur at the same time. However nothing in this Rule shall allow for the term of the inaugural National Branch Council to be less than two (2) years or more than four (4) years in duration;
  - (c) To be eligible to stand for the inaugural National Branch Council, a member of National Branch must have been a continuous financial member of APSA for a period of two (2) months prior to the date on which nominations for Branch Council are called; and
  - (d) There shall be no requirement that any candidate for any office on the inaugural National Branch Council must have previously served on any Branch Council of the association, or the equivalent governing body of either of the predecessor organisations.
- 88.4 The Federal Council shall determine the composition of the inaugural National Branch Council prior to the calling of nominations for the inaugural Branch Council elections. In doing so, the Federal Council shall have regard for the following principles:
- (a) The number of members of the National Branch
  - (b) The rate of growth of membership of the National Branch, and the likely rate of growth in membership over the term of the inaugural National Branch Council
  - (c) The likelihood of one or more State Branches being formed during the term of the inaugural National Branch Council, and the impact that may have on the composition of the National Branch Council; and
  - (d) The financial capacity of National Branch to support the administration of the Branch.
- 88.5 The Federal Council must also ensure that the inaugural National Branch Council:
- (a) Is of a sufficient size to ensure that the number of ordinary Councillors is equal to or exceeds the number of National Branch Officers
  - (b) Is of a sufficient size to ensure that:
    - (1) One member can fulfil the duties of National Branch President;
    - (2) One member can fulfil the duties of National Branch Secretary; and



- (3) One member can fulfil the duties of National Branch Treasurer
  - (c) Has no fewer than six (6) and no more than twelve (12) members
  - (d) If there are not sufficient numbers on the National Branch Council, either one (1) or two (2) positions of Vice President need not be filled, and
  - (e) If there are not sufficient numbers on the National Branch Council, the offices of Assistant Secretary and Treasurer may be combined and filled by one person.
- 88.6 The Federal Assistant Secretary shall be deemed to be the National Branch Secretary and carry out all necessary functions regarding the management of the National Branch, other than the financial management of the Branch, until the National Branch Council is elected.
- 88.7 The Federal Treasurer shall carry out the financial management functions of the National Branch, and fulfil all obligations and requirements under these Rules until the National Branch Council is elected.