

# Form F68A Application for Consent to the Alteration of Eligibility Rules of an Organisation by General Manager

IN FAIR WORK AUSTRALIA

*FWA use only*

FWA Matter No.:

## APPLICATION FOR CONSENT TO THE ALTERATION OF ELIGIBILITY RULES OF AN ORGANISATION BY GENERAL MANAGER

*Fair Work (Registered Organisations) Act 2009*

*Fair Work (Registered Organisations) Regulations 2009—paragraph 125B (1) (a)*

### Applicant Organisation

<b>Name:</b>	Australian Municipal, Administrative, Clerical and Services Union		
	<b>ABN:</b>	28519971998	
<b>Address:</b>	Ground Floor, 116 – 124 Queensberry Street		
<b>Suburb:</b>	Carlton South	<b>State:</b> VIC	<b>Postcode:</b> 3053
<b>Contact person:</b>	David Smith		
	<b>Title</b> Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other <input type="checkbox"/> specify:		
<b>Telephone:</b>	03 9342 1400	<b>Mobile:</b>	
<b>Fax:</b>	03 9342 1499	<b>Email:</b>	dsmith@asu.asn.au

The Applicant applies for consent to the alteration of the eligibility rules of the organisation to extend them to apply to persons within the eligibility rules of an association of employees that is registered under a State or Territory industrial law as follows:

### Proposed alteration to eligibility rules

1. It is proposed to alter the eligibility rules of the Australian Municipal, Administrative, Clerical and Services Union (“ASU”) to extend them to apply to persons within the eligibility rules of Queensland Services, Industrial Union of Employees (“QSU”) as follows:

#### **PART XXIV**

- (a) The Union, in the State of Queensland, shall consist of and be open to employees who are employed in the State of Queensland as:-
  - (i) Architects and Naval Architects.
  - (ii) Aerodrome Engineers, Aeronautical Engineers, Chemical Engineers, Civil Engineers, Communication Engineers, Electrical Engineers, Electronic Engineers, Hydraulic Engineers, Local Government Engineers, Marine Engineers, Mechanical Engineers, Metallurgical Engineers, Mining Engineers, Production Engineers, Radio Engineers, Railway Engineers, Road Engineers, Structural Engineers, Water and Sewerage Engineers and Wireless Engineers.
  - (iii) Aircraft Surveyors, Building Surveyors, Engineering Surveyors, Geodetic Surveyors and Computers, Hydrographic Surveyors, Land Surveyors, Marine Surveyors, Mining Surveyors, Quantity Surveyors, Survey Computers and Topographical Surveyors.
  - (iv) Aeronautical Draughtsmen, Architectural Draughtsmen, Cartographers, Cartographic Draughtsmen, Chemical Engineering Draughtsmen, Civil Engineering Draughtsmen, Electrical Engineering Draughtsmen, Estimating

Draughtsmen, Hydraulic Engineering Draughtsmen, Jig and Tool Draughtsmen, Local Government Engineering Draughtsmen, Marine Engineering Draughtsmen, Mechanical Engineering Draughtsmen, Mining Engineering Draughtsmen, Photogrammetric Draughtsmen, Production Engineering Draughtsmen, Radio Engineering Draughtsmen, Railway Engineering Draughtsmen, Road Engineering Draughtsmen, Ship Building Draughtsmen, Structural Draughtsmen, Survey Draughtsmen, Water and Sewerage Engineering Draughtsmen, Wireless Engineering Draughtsmen and Technical Illustrators.

- (v) Tracers.
- (vi) Aircraft Inspectors and Examiners (other than inspectors and examiners employed inspecting or examining sheet metal work elsewhere than in the Directorate of Quality Control R.A.A.F.) Certified Mine Managers, Engineering Inspectors, Building Inspectors, Testers of Engineering Materials, Supervisor of Engineering Production, Planners of Engineering Production, Construction of Maintenance Work, Weather Officers.
- (vii) Technical Assistants and Technical Officers.
- (viii) Apprentice Architects, Surveyors and Draughtsmen, Students and Cadets engaged in a course of study the object of which is to qualify them for employment in any one of the foregoing professions or callings.
- (ix) Scientists and scientific assistants (other than those employed by the Crown).
- (x) Town, Country and Regional planners and planning assistants (other than those employed by the Crown).
- (xi) Such other persons appointed full-time officers, industrial officers or Organisers of the Queensland Services, Industrial Union of Employees, shall be admitted as Associate Members of the Union.

Before any applicant may be admitted to membership of the Union in the State of Queensland, the person shall:

1. Be a corporate member of a Society, Institute or Institution as may from time to time be approved of by the Union; or
  2. Hold a Degree, Diploma or Certificate of a University Institute or Technical College in any branch of Architecture, Chemistry, Engineering, Science, Surveying or Draughting which is recognised by the Union; or
  3. Be undergoing a course of training in a profession or calling covered by the Union; or
  4. Be a person who has been and still is actively employed in one or more of the professions or callings covered by the Union.
- (b) (i) The Union in the State of Queensland shall consist of an unlimited number of employees who are employed in or in connection with the generation of electricity at Gladstone Power Station as:
1. employees who are principally engaged in administrative and/or clerical duties;
  2. employees who are principally engaged in professional and/or managerial duties;
  3. employees who are principally engaged in paraprofessional duties, excluding such employees who are required to use tools in the normal course of the employee's work;
  4. employees who are principally engaged in training or supervisory duties, excluding employees where training and supervisory duties are incidental to such employee's principal duties;

5. employees who are principally engaged in the operation and/or control of Power Generation Plant where such operation and control is undertaken in, or linked to, a designated control or operations room.
- (ii) Provided always that employees, inclusive of the employees of the contractors and/or subcontractors employed in or in connection with the generation of electricity at Gladstone Power Station other than those employees referred to in sub-rule b(i) hereof shall not be eligible for membership of the Union and shall not be represented by the Union.
- (c) The Union in the State of Queensland shall consist of an unlimited number of persons who are employed or who are usually employed for hire or reward on a full time or part time basis in social welfare work in the State of Queensland; provided that employees of the Queensland State Public Service, Queensland Public Hospital Boards and Mater Misericordia Hospital Board shall only be eligible for membership where they hold qualifications in social welfare work conferred by a recognised tertiary educational institution.

For the purpose of this rule:

“Social welfare workers” are specialists in the provision or organisation of social welfare services. “Social welfare services” are services provided by governments and by charitable, religious and community based organisations. They are services of a therapeutic custodial or practical nature designed to provide social support to individual’s families or communities.

“Qualifications in social welfare work” are qualifications conferred on successful completion of a course of study and training in one or more of the following Methods of social welfare work:

Social casework, group work, community organisation, or social welfare research policy analysis and administration.

These methods of social welfare work are skills used by social welfare workers to improve the social functioning of individuals, groups or communities.

- (d) (i) All salaried employees of the Commissioner for Railways employed in the State of Queensland shall be eligible for membership.
- (ii) In addition, this Union in the State of Queensland shall be composed of persons who are full time officers of the Queensland Services, Industrial Union of Employees, life members of the Queensland Services, Industrial Union of Employees, associate members of the Queensland Services, Industrial Union of Employees and employees employed in the State of Queensland by the Queensland Railways in the following list of callings:

Clerks (including typists)	Guards
Station Masters	Shunters (All Grades)
Assistant Station Masters	Conductors
Night Officers	Warehousemen
Station Mistresses	Signalmen
Assistant Station Mistresses	Carriage Cleaners
Gatekeepers	Carriage Shed Employees
Gatekeepers Assistants	Messengers
Porters (All Grades)	Watchmen

Checkers (All Grades)  
Goods Shed Employees  
Storemen  
Yard Foreman  
Yard Supervisors  
Traffic Foremen  
Ticket Inspectors  
Traffic Inspectors

Charwomen  
Quarters Attendants  
Waiting Room Attendants  
Weighbridgemen  
Flagmen  
Advertising Branch Wages Staff  
Labourers

Any other employee, employed in the State of Queensland, who is entitled to vote for the traffic employee's representative on the Appeal Board.

2. It is proposed to alter the eligibility rules of the ASU to extend them to apply to persons within the eligibility rules of New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union ("NSW USU") as follows:

***PART XXV***

- (a) The Union in the State of New South Wales shall consist of an unlimited number of persons, employed in the State of New South Wales, who are -

(i) employees of:

1. Municipal, Shire and County Councils;
2. any contractor to any such Council;
3. anybody, whether personal or corporate or otherwise, and whosoever styled, carrying out social functions of a civic character on behalf of or by arrangement with any such Council;
4. anybody, whether personal or corporate or otherwise, and howsoever styled, controlling, in whole or in part, services formerly controlled by a Municipal, Shire or County Council; and
5. any contractor to any such body, and who have been admitted as members of the Union.

Provided, in the latter two cases, that such employees prior to the constitution or establishment of such body were members of the Union in accordance with this Part XXV or eligible to become members in accordance with this Part XXV;

- (ii) employees of Waste Planning and Management Boards and the successors;
- (iii) employees of Australian Health Management Group Pty Ltd and their successors;
- (iv) persons upon whom life membership of the USU has been conferred in accordance with these Rules;
- (v) persons who while being members of the Union, in accordance with this Part XXV, retire from the industry and from work upon the ground of ill-health or of having reached retiring age, and whose membership has not been terminated pursuant to these Rules;
- (vi) persons, whether employed in the industry or not, who have been elected or appointed officers of the USU, and who have been admitted as members of the USU.

- (b) The Union in the State of New South Wales shall consist of all persons, employed in the State of New South Wales, and engaged in any clerical capacity, including those engaged in the occupation of shorthand writers and typists and/or on calculating, billing, and/or other machines designed to perform or assist in performing any clerical work

whatsoever, and/or including telephonists and persons employed as canvassers (other than canvassers for the sale of goods) and/or collectors.

Membership shall be available to persons employed on a Totalisator or Totalisators within the State of New South Wales, excepting such persons as were covered by the Constitutions of the Electrical Trades Union of Australia, New South Wales Branch, the Amalgamated Engineering Union, Australia Section, and the Federated Miscellaneous Workers Union of Australia, New South Wales Branch, as at 4th June, 1947.

3. It is proposed to alter the eligibility rules of the ASU to extend them to apply to persons within the eligibility rules of Australian Services Union of New South Wales (“NSW ASU”) as follows:

***PART XXVI***

- (a) The Union in the State of New South Wales shall consist of all employees who are directly or indirectly engaged in water and/or sewerage reticulation and/or in any related or ancillary or incidental activity in the course of their employment in New South Wales in the service of the Water Board or any successor thereto; and
- (b) The Union in the State of New South Wales shall consist of all persons, employed in the State of New South Wales, as officers (or persons employed performing the duties of officers) and persons employed as field clerks by the Maritime Services Board of NSW or the successors, assignees or transmittes of the business or functions of the Maritime Services Board of NSW or part thereof excluding those employees in the Dredge Service and persons employed in the following classifications: Architects, Legal Officers, Scientific Officers, Surveyors, or Economists; and shall also consist of persons employed performing similar duties as Officers of the Maritime Services Board of NSW employed at export coalhandling facilities managed and operated by the Maritime Services Board as at 1 January 1981 at any export coalhandling facility in New South Wales (excepting Port Waratah Coal Services Pty. Ltd., Newcastle); and
- (c) The Union in the State of New South Wales shall consist of any person, employed in the State of New South Wales, on a full-time or part-time basis, in or in connection with the industry of social and/or welfare work shall be eligible to be or to become a member of the Union in the State of New South Wales, together with such persons, whether employed in or in connection with social and/or welfare work or not, who have been appointed officers of the NSW Services Union.
- (d) The Union in the State of New South Wales shall consist of employees of the Hunter Water Corporation and employees of any wholly or partly owned subsidiary of the Hunter Water Corporation or any successor, transferee, assignee or transmittes of the functions, whole or in part of the Hunter Water Corporation employed in the State of New South Wales; and
- (e) The Union in the State of New South Wales shall consist of:-
  - (i) Persons of good character who are employed in the State of New South Wales:
    - on the salaried staff of the Commissioner for Railways; or
    - on the salaried staff of the Commissioner for Government Transport; or
    - on the salaried staff of the Commissioner for Motor Transport; or
    - on the salaried staff of The Electricity Commission of New South Wales; or
    - as salaried staff in connection with air transport;
  - (ii) Persons who, while being of any class specified in part (i) above and while being members of the Union, are temporarily regressed to the wages staff of the employer;

- (iii) Persons who are employed on the staff of the NSW Services Union and who become and remain members of the NSW Services Union pursuant to the Rules;
- (iv) Persons who become associate life members of the NSW Services Union pursuant to sub-rule (b) of Rule 24 of these Rules of the NSW Services Union, or upon whom associate life membership is conferred pursuant to the same sub-rule, and who remain such; and
- (f) Any person who is an employee or officer of the NSW Services Union in the State of New South Wales is eligible to belong to the NSW Services Union.

4. It is proposed to alter the eligibility rules of the ASU to extend them to apply to persons within the eligibility rules of Amalgamated ASU (SA) State Union (“SA ASU”) as follows:

***PART XXVII***

- (a) Any person employed as a lawyer in the State of South Australia is entitled to be a member of the Union together with such other persons, whether lawyers or not, as have been elected to the council of the SA Union and who have been admitted as members hereof, save and except that the following persons, excluding only such elected persons as referred to hereinbefore, shall not be eligible for membership of the Union in the State of South Australia;
  - (i) any person who is a principal in a firm of legal practitioners;
  - (ii) any person who is both an employee and a voting director of a company conducting the practice of a legal practitioner pursuant to the provisions of the Legal Practitioners Act 1981, as amended;
  - (iii) any person who is or who is held out to be a consultant to a firm of legal practitioners or to a company conducting the practice of a legal practitioner pursuant to the terms of the Legal Practitioners Act 1981, as amended;
  - (iv) lawyers and legal officers employed permanently or temporarily by the Commissioner for Public Employment pursuant to the Government Management and Employment Act 1985, as amended; and
  - (v) lawyers and legal officers employed by or under any Board, Trust, Commission, Commissioner, Committee or other public or statutory authority appointed by the South Australian Government.
- (b) Without limiting the generality of the foregoing or being limited in any way by the foregoing members of the Union in the State of South Australia shall be open to;
  - (i) Persons, employed in the State of South Australia, engaged in or about an office. Each member of the branch shall be allocated to a Section. Without limited the generality of the foregoing shall include:

any person so engaged

1. in any clerical capacity
2. either wholly or partially in the occupations of shorthand writer, typist, teleprinter operator, addressing machine operator, dictation machine operator, punch card machine operator, cashier, receptionist, messenger and/or telephonist
3. either wholly or partially in calculating whether by ordinary means, or by means of any machine designed to perform or assist in performing clerical work.

4. on invoicing, charging, billing, pricing, scheduling, planning, correspondence, books and accounts, checking or otherwise dealing with records, or in any other clerical capacity whatsoever.
5. as salesman, tracer, draughtsman, or in any similar technical capacity.
6. as secretary, cost accountant, accountant, chief clerk, payroll officer, sales manager, purchasing officer, production control officer, pay clerk, cost clerk, purchasing clerk, sales clerk, statistics clerk, foreperson's clerk, timekeeper or any similar or other designated clerical position.
7. engaged outside an office in any clerical capacity or as a metre reader;
8. engaged as depot superintendent by any Oil Company;
9. engaged as branch manager, sub-branch manager, auctioneer, wool valuer, wool technician, wool cadet or store manager by any Stock and Station Agent;
10. engaged as two-way radio operator in connection with a fleet of motor vehicles;
11. engaged as terminal officers, grain officers, senior inspectors or inspectors employed by South Australian Co-Operative Bulk Handling Limited;
12. engaged in any combination of the above.

- (c) Without limiting the generality of the foregoing or being in any way limited by the foregoing members of the Union shall be open to any person employed or usually employed for hire or reward on a full time or part time basis in the industry of social welfare work in the State of South Australia:

PROVIDED THAT the following persons shall only be eligible for membership where they are employed in or in connection with professional social work: persons who are eligible for membership of the PSA of SA or the SPSF (SA BRANCH) in accordance with their rules as at 19.09.86, and who are employed in the South Australian Public Sector (within the meaning of the Government Management and Employment Act, 1985 or by any board trust, commission, committee or any other public statutory authority appointed by the SA Government and under the control of the SA Government under the following Acts:

Government Management and Employment Act 1985  
 SA Health Commission Act 1967  
 SA Housing Trust Act 1963-73  
 SA College of Advanced Education Act 1982  
 Children Services Act 1984  
 Alcohol and Drug Addicts Treatment Board Act 1961-71  
 Mental Health Act 1935-74  
 Parks Community Centre Act 1981  
 Or any other Acts which replace or amend them.

Without limiting the generality of the foregoing or being in any way limited by the foregoing membership of the Union shall also be open to persons who have been appointed officers of the SA Union whether employed in the occupation and industries referred to in rule 5 eligibility.

**Compliance with section 158A of the *Fair Work (Registered Organisations Act) 2009* (Cth)**

5. The alteration has been made in accordance with the rules of the ASU.
6. The action taken under the rules of the ASU to alter the rules was:

- (a) At the National Executive meeting on 18<sup>th</sup> of July 2012 the agenda included a draft 158A application for discussion by the National Executive.
- (b) The National Executive instructed the National Secretary to progress the 158A application in consultation with Branch Secretaries.
- (c) Consultation was completed with the Branch Secretaries on the 19<sup>th</sup> October 2012. in accordance with rule 49 ;
- (d) On 12<sup>th</sup> November 2012 the wording of the proposal for amendment was forwarded by the National Secretary to the Branch Secretaries and to the National Executive members 14 days prior to the National Executive meeting in accordance with rule 49;
- (e) On 22<sup>nd</sup> October 2012 the National Secretary gave 24 days notice of the National Executive meeting to be held on 26<sup>th</sup> November 2012 in accordance with rule 8(g);
- (f) On 26<sup>th</sup> November 2012 the National Executive convened with a quorum in accordance with rule 8(i);
- (g) At the meeting, the National Executive passed unanimously the following resolution:

*“The National Executive having considered the proposal to alter the eligibility rules of the ASU under section 158A of FW(RO)A, in accordance with rule 49, resolves that the National Secretary is directed to make application to alter the eligibility rules of the ASU in accordance with the proposal”;*

*“The National Executive, directs the National Secretary, in the event that Fair Work Australia determines in relation to the 158A application to only award in part the amendments sought in the proposal, to as necessary amend the application to alter the eligibility rule to reflect the FW determination.”*

7. The ASU is a federal counterpart of the:

- a. QSU;
- b. NSW USU;
- c. NSW ASU; and
- d. SA ASU.

(the “relevant state associations”).

- 8. The proposed alteration of the eligibility rules of the ASU will not extend the eligibility rules of the ASU beyond the rules of the relevant state associations in the State concerned.
- 9. The alteration of the eligibility rules will not apply respectively outside the limits of the State in which the relevant state association is registered.

**Compliance with Regulation 125A of the *Fair Work (Registered Organisation) Regulations 2009 (Cth)***

- 10. The QSU actively represents the class or classes of employees to which the extension of eligibility rules will apply.



11. The QSU is engaged in the following activities in relation to the class of employees to which the extension of eligibility rules will apply:
  - a. organising and recruitment activity;
  - b. representing employees in negotiations with employers;
  - c. representing employees in industrial bodies;
  - d. obtaining and maintaining award conditions; and
  - e. collective bargaining.
12. The class of employees to which the extension of the eligibility rules will apply is covered by the QSU's eligibility rules.
13. The QSU is not subject to a representation order, a State demarcation order or a demarcation undertaking or agreement, in favour of another organisation or association, in relation to the class of employees to which the extension of eligibility rules will apply
14. The NSW USU actively represents the class or classes of employees to which the extension of eligibility rules will apply.
15. The NSW USU is engaged in the following activities in relation to the class of employees to which the extension of eligibility rules will apply:
  - a. organising and recruitment activity;
  - b. representing employees in negotiations with employers;
  - c. representing employees in industrial bodies;
  - d. obtaining and maintaining award conditions; and
  - e. collective bargaining.
16. The class of employees to which the extension of the eligibility rules will apply is covered by the NSW USU's eligibility rules.
17. The NSW USU is not subject to a representation order, a State demarcation order or a demarcation undertaking or agreement, in favour of another organisation or association, in relation to the class of employees to which the extension of eligibility rules will apply, other than arises out of the memorandum of understanding between the USU and Construction Forestry Mining Energy Union (New South Wales).
18. The NSW ASU actively represents the class or classes of employees to which the extension of eligibility rules will apply.
19. The NSW ASU is engaged in the following activities in relation to the class of employees to which the extension of eligibility rules will apply:
  - a. organising and recruitment activity;
  - b. representing employees in negotiations with employers;
  - c. representing employees in industrial bodies;
  - d. obtaining and maintaining award conditions; and
  - e. collective bargaining.
20. The class of employees to which the extension of the eligibility rules will apply is covered by the NSW ASU's eligibility rules.

21. The NSW ASU is not subject to a representation order, a State demarcation order or a demarcation undertaking or agreement, in favour of another organisation or association, in relation to the class of employees to which the extension of eligibility rules will apply
22. The SA ASU actively represents the class or classes of employees to which the extension of eligibility rules will apply.
23. The SA ASU is engaged in the following activities in relation to the class of employees to which the extension of eligibility rules will apply:
  - a. organising and recruitment activity;
  - b. representing employees in negotiations with employers;
  - c. representing employees in industrial bodies;
  - d. obtaining and maintaining award conditions; and
  - e. collective bargaining.
24. The class of employees to which the extension of the eligibility rules will apply is covered by the SA ASU's eligibility rules.
25. The SA ASU is not subject to a representation order, a State demarcation order or a demarcation undertaking or agreement, in favour of another organisation or association, in relation to the class of employees to which the extension of eligibility rules will apply.
26. I declare the facts contained in this application are to the best of my knowledge true and correct.

**Date: 24 December 2012**



.....  
**David Smith**  
National Secretary  
Australian Municipal, Administrative, Clerical and  
Services Union

Note 1: The application must:

1. be accompanied by a copy of the rules of the organisation and a copy of the rules of the association to which the organisation is the federal counterpart; and
2. set out the alteration, the reasons for the alteration and the effect of the alteration in sufficient detail to enable the General Manager to satisfy himself or herself that:
  - (a) the alteration has been made under the rules of the organisation; and
  - (b) the organisation is a federal counterpart of the association; and
  - (c) the alteration will not extend the eligibility rules of the organisation beyond those of the association; and
  - (d) the alteration will not apply outside the limits of the State or Territory for which the association is registered; and

(e) the association of employers or employees actively represents the class or classes of employers or employees to which the extension of eligibility rules will apply.

3. include a declaration:

(a) that the alteration was made in accordance with the rules of the organisation; and

(b) describing the action taken under the rules of the organisation to make the alteration; and

(c) verifying the facts stated in the application.

Note 2: An application must be sealed with the Common Seal of the organisation or be signed by a person authorised to sign the application. See regulation 13 of the *Fair Work (Registered Organisations) Regulations 2009*.

Note 3: An organisation that has a website must publish on the website a notice that it has lodged the application.

**APPLICATION FOR CONSENT TO THE ALTERATION OF ELIGIBILITY  
RULES OF AN ORGANISATION BY GENERAL MANAGER**

*Fair Work (Registered Organisations) Act 2009*

*Fair Work (Registered Organisations) Regulations 2009*—paragraph 125 B(1)(a)

**DECLARATION**

I, David Smith, of 116-124 Queensberry Street, Carlton South in the State of Victoria declare as follows:

1. The Australian Municipal, Administrative, Clerical and Services Union (“ASU”) is an organisation registered pursuant to the *Fair Work (Registered Organisations) Act 2009*. (“FW(RO)A”).
2. I am the National Secretary of the ASU and I am authorised to make this Declaration.
3. The National Executive of the ASU has resolved to alter the eligibility rule of the ASU in accordance with section 158A of FW(RO)A (“the application”).
4. Section 9A of the FW(RO)A provides for a federally registered organisation to be the “federal counterpart” of a state registered industrial association.
5. The ASU is pursuant to Section 9A, Regulation 8A and Schedule 1A, a federal counterpart of the:
  - (a) Queensland Services Industrial Union of Employees (“QSU”);
  - (b) New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union (“USU”);
  - (c) Australian Services Union of N.S.W. (“NSW Services Union”); and
  - (d) Amalgamated ASU (SA) State Union (“ASU (SA)”).(“the state associations”).
6. I annexe hereto and mark as a bundle “**DS1**” a copy of the rules of each of the:
  - (a) QSU;
  - (b) USU;
  - (c) NSW Services Union; and
  - (d) ASU (SA).
7. I annexe hereto and mark as a bundle “**DS2**” a copy of the eligibility rules of each of the:
  - (a) QSU;
  - (b) USU;
  - (c) NSW Services Union; and
  - (d) ASU (SA).

8. The ASU is seeking, by the application, to amend its eligibility rules by as much of the text of the respective:
  - (a) QSU;
  - (b) USU;
  - (c) NSW Services Union; and
  - (d) ASU (SA),as provides extended eligibility coverage for the ASU.
9. The proposed changes to the eligibility rule of the ASU make clear that the proposed changes do not apply outside the state for which the respective state association is registered and to which state association the change relates.
10. Copies of each of the proposed rule changes are annexed hereto and marked as bundle “DS3”.
11. The eligibility rules of the ASU, as amended by the application, will not, insofar as the eligibility of the respective state association are concerned, apply outside the state in which the respective state association is registered.

#### **Amendment in accordance with the ASU rules**

12. The proposed amendment of the ASU’s eligibility rule has been made in accordance with the rules of the ASU.
13. The action taken under the rules of the ASU to alter the rules was:
  - (a) At the National Executive meeting on 18<sup>th</sup> of July 2012 the agenda included a draft 158A application for discussion by the National Executive.
  - (b) The National Executive instructed the National Secretary to progress the 158A application in consultation with Branch Secretaries.
  - (c) Consultation was completed with the Branch Secretaries on the 19<sup>th</sup> October 2012. in accordance with rule 49 ;
  - (d) On 12<sup>th</sup> November 2012 the wording of the proposal for amendment was forwarded by the National Secretary to the Branch Secretaries and to the National Executive members 14 days prior to the National Executive meeting in accordance with rule 49;
  - (e) On 22<sup>nd</sup> October 2012 the National Secretary gave 24 days notice of the National Executive meeting to be held on 26<sup>th</sup> November 2012 in accordance with rule 8(g);
  - (f) On 26<sup>th</sup> November 2012 the National Executive convened with a quorum in accordance with rule 8(i);
  - (g) At the meeting, the National Executive passed unanimously the following resolution:

*“The National Executive having considered the proposal to alter the eligibility rules of the ASU under section 158A of FW(RO)A, in accordance with rule 49, resolves that the National Secretary is directed to make application to alter the eligibility rules of the ASU in accordance with the proposal”;*

*“The National Executive, directs the National Secretary, in the event that Fair Work Australia determines in relation to the 158A application to only award in part the amendments sought in the proposal, to as necessary amend the application to alter the eligibility rule to reflect the FW determination.”*

14. I annex hereto and mark as a bundle “**DS4**” the documents referred to in paragraph 13.
15. In each of the states in which one of the state associations is registered, there is a system of dual registration. That is an industrial relations system operates in the state jurisdiction concerned, and that industrial system provides for the registration of organisations.
16. I am, as the National Secretary of the ASU, aware of how each of the state associations operates and how the association’s administration works in conjunction with the ASU.
17. I am as the National Secretary of the ASU aware the members of the state associations set out in the left hand column are also members of the Branch of the ASU set out in the right hand column:

Queensland Services Industrial Union of Employees	Queensland (Services and Northern Administrative) Branch
New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Union	New South Wales Local Government, Clerical, Administrative, Energy, Airlines and Utilities Branch
Australian Services Union of N.S.W.	NSW & ACT (Services) Branch
Amalgamated ASU (SA) State Union	South Australian and Northern Territory Branch

18. I am advised by each of the Branch Secretaries of the:

- (a) Queensland (Services and Northern Administrative) Branch;
- (b) NSW Local Government, Clerical, Administrative, Energy, Airlines and Utilities Branch;
- (c) NSW & ACT (Services) Branch; and
- (d) South Australian and Northern Territory Branch,

that they are also respectively the State Secretaries of the:

- (a) QSU;
- (b) USU;
- (c) NSW Services Union;
- (d) ASU (SA).

(“State Secretaries)

19. I am aware of the work performed by, and the types of employers of members of the ASU. Consequently I am aware of the nature of work performed by members and the types of employers of members of the state associations.

20. I have met each of the State Secretaries and discussed the making of this application with each of them.

21. As National Secretary I have inquired of each of the State Secretaries as to the industrial regulation and representation of members of their respective state associations and in particular how the following:

- (a) organising and recruitment activity;
- (b) representing employees in negotiations with employers;
- (c) representing employees in industrial bodies;
- (d) obtaining and maintaining award conditions; and
- (e) collective bargaining,

has been effected in their respective state.

22. In particular when making those inquiries I requested that the State Secretaries advise me in respect of the arrangements that existed in relation to members of the state associations prior to those members becoming national system employees.

23. I have set out below, insofar as each state association is concerned, the information I have been provided, and which I believe, from the respective State Secretaries.

## **QSU**

24. The QSU actively represents, or has actively represented, the class or classes of employees to which the extension of eligibility rules will apply.

25. The QSU is engaged in the following activities in relation to the class of employees to which the extension of eligibility rules will apply:

- (a) organising and recruitment activity;
- (b) representing employees in negotiations with employers;
- (c) representing employees in industrial bodies;
- (d) obtaining and maintaining award conditions; and
- (e) collective bargaining.

26. The relevant awards and agreements that “apply” to the eligibility the subject of the application include without limitation the following:

### **Electricity**

- CS Energy Swanbank Power Station ( Enterprise Bargaining) Agreement 2004 - Certified Agreement (C2141 - version 1)
- Working at MEB 1998 Certified Agreement (0015060)
- Electricity Generation, Transmission And Supply Award - State 2002 (E0140\_040909\_1 - version 1)
- Gladstone Power Station Award - State 2003 (G0170\_040909\_1 - version 1)

## **Public Sector**

- Queensland Government - Department Of Families, Youth And Community Care - (0011769)
- State Government Department Certified Agreement 2009
- SEQ Water Enterprise Bargaining Certified Agreement 2009-2012
- Main Roads Enterprise Development Agreement

## **Rail/QR**

- QR, Infrastructure Services Resurfacing Teams Certified Agreement 2004 (Q0270 - version 2)
- QR, Infrastructure Services Resleeping Teams - Certified Agreement 2004 (Q0258 - version 2)
- Queensland Rail, Infrastructure Services Group Major Rail Construction Management - Certified Agreement 2004 (Q0269 - version 1)
- QR Kuranda Scenic Railway Flexible Permanent Part-Time Guest Service Attendant - Certified Agreement 2003 (K0072 - version 1)
- Queensland Rail, Infrastructure Construction Track Laying Machine Gang Certified Agreement 2002 (Q0154 - version 2)
- Q Link Performance Linked Reward Scheme Certified Agreement (0015965)
- Queensland Rail Q Link Freight Certified Agreement 1998 (0015740)
- CI Supervisor Progression Agreement Certified Agreement (0014414)
- Queensland Rail Award - State Payment Of Allowances Brisbane Relief Employees Certified Agreement (0012600)
- Queensland Rail Express Freight (Terminal Operators) Certified Agreement 1998 (0012613)
- Queensland Rail Rollingstock Gainsharing Certified Agreement, 1997 (0011771)
- Queensland Rail Station And Yards Certified Agreement, 1997 (0011727)
- Queensland Rail Award - State 2003 (Q0111\_040909\_1 - version 1)

## **SACS**

- Kids Help Line Counsellors - Certified Agreement 2004 (K0078 - version 1)



- The Queensland Community Services and Health Industries Training Council - Certified Agreement 2004 (Q0236 - version 1)
- Queensland Aids Council Incorporated Certified Agreement 2003 (Q0250 - version 1)
- The Queensland Working Women's Service Inc. Certified Agreement (Q0285 - version 1)
- Centacare - Amelia House And Belmont Respite Services And Sunnybank Aged Care Project - Certified Agreement 1999 (0015641)
- Centacare - Bribie Community Options Project And Waminda Respite Centre Certified Agreement 2000 (0014947)
- Centacare - South West Brisbane Community Options/Connections Certified Agreement 1999 (0014946)
- Catholic Social Response - Lifestyle Support Workers - Certified Agreement (0012148)
- Blue Care Enterprise Award - State 2004 (B0189\_040909\_1 - version 1)
- Cerebral Palsy League Of Queensland Award 2003 (C0579\_040909\_1 - version 1)
- Endeavour Foundation Enterprise Award - State 2005 (E0472\_040909\_1 - version 1)
- Royal Blind Foundation Award - State 2003 (R0210\_040909\_1 - version 1)

#### **AAESDA/Technical**

- Surveying (Private Practice) Award - State 2006 (S1225\_040909\_1 - version 1)
- Unitab Limited Employees Award - State 2003 (U0010\_040909\_1 - version 1)

27. I am advised by the State Secretary of the QSU that the QSU has been active in the Industrial Relations Commission of Queensland in ensuring that these awards were obtained and maintained so that the conditions they provide were industrially appropriate and contemporary.
28. I am further advised that State wage decisions were applied for and flowed on to these awards until the jurisdiction for the employees, covered by a relevant state award, was transferred to the Commonwealth, and those employees became national system employees whose industrial conditions became the subject of a relevant transitional or modern award.
29. I am advised by the State Secretary of the QSU that the QSU has been active in the workplaces of its members, and in the Industrial Relations Commission of Queensland, in ensuring that agreements have been made so that the conditions members enjoyed were industrially appropriate and contemporary.

30. I am advised by the State Secretary of the QSU that the QSU has been active in representing individual members, being members whose entitlement to membership relates to the eligibility the subject of the application, in those members' workplaces and in the Industrial Relations Commission of Queensland.
31. The class of employees to which the extension of the eligibility rules will apply is covered by the QSU's eligibility rules.
32. The QSU is not subject to any representation order, State demarcation order or demarcation undertaking or agreement, in favour of another organisation or association, in relation to the class of employees to which the proposed eligibility rules will apply.
33. The QSU has sought and obtained registration initially as a Transitionally Registered Association and is now, in accordance with the FW(RO)A, a Transitionally Recognised Association ("TRA").
34. The QSU has utilised its status as a TRA for the purposes of industrially representing members of the QSU who would, but for the introduction of the WorkChoices Legislation in 2006, have been non national system employees.
35. I am as National Secretary, and former State Secretary of the QSU, aware that the QSU and the ASU have entered into Section 202 Agreements (now Section 151) following amalgamations of State Unions where the ASU did not have full eligibility in relation to one of the amalgamating parties. I am aware the Section 202 Agreements relate to members whose eligibility for membership is the subject of the application insofar as it relates to the QSU.

## **USU**

36. The USU actively represents, or has actively represented, the class or classes of employees to which the extension of eligibility rules will apply.
37. The USU is engaged in the following activities in relation to the class of employees to which the extension of eligibility rules will apply:
  - (a) organising and recruitment activity;
  - (b) representing employees in negotiations with employers;
  - (c) representing employees in industrial bodies;
  - (d) obtaining and maintaining award conditions; and
  - (e) collective bargaining.
38. The relevant awards and agreements that apply include as follows:

### **Energy Agreements**

- Ausgrid Agreement 2010
- Essential Energy Enterprise Agreement 2011
- Endeavour Energy Enterprise Agreement 2010
- Essential Far West Electricity Enterprise Agreement 2011
- TransGrid Employees Agreement 2010
- Energex Union Collective Agreement 2011
- Ergon Energy Union Collective Agreement 2011

- Working at Powerlink 2011 Union Collective Agreement
- Eraring Energy Enterprise Agreement 2012
- Delta Electricity Employees Enterprise Agreement 2011
- Macquarie Generation Enterprise Agreement 2009
- Pacific Power – internal organising supporting documentation
- Electricity Commission of NSW – MOU – Award Restructuring Implementation – 29 January 1991
- D2008/101 – Deed of Agreement between CPSU & ASU – NSW Electricity Transmission and Generator Industry

### **Energy Awards**

- Country Energy Enterprise Award 2004
- Delta Electricity Employees Award 2005
- Energy Australia Award 2004
- Eraring Energy Employees Consent Award 2004
- Integral Energy Conditions of Employment Award 2005
- Macquarie Generation Employees (State) Award 2005
- Transgrid Employees Award 2004

### **Local Government**

- Local Government (State) Award
- City of Sydney Wages/Salary Award 2002
- Mid Coast County Council Enterprise Award 2004
- Newcastle City Council Employees' Award 2003
- In addition the USU is a party to all State Council Agreements in NSW

### **Water**

- Essential Energy Far West Electricity Enterprise Agreement 2011
- Essential Water Enterprise Agreement 2011
- Midcoast County Council Enterprise Agreement 2012
- Riverina Water Council Enterprise Award 2010
- Goldenfields Water County Council Enterprise Award 2010

### **Miscellaneous**

- Sydney Markets Limited Enterprise Agreement 2009

### **Private Sector**

### **STATE**

- School Support Staff (Catholic Independent Schools) (State) Award
- Graduate at Law (State) Award
- Clerical and Administrative Employees (John Fairfax Publications) Award 1997
- Clerical and Administrative Employees, Hire Cars and Taxis (State) Award

- Clerical and Administrative Employees Legal Industry (State) Award
- Mirror and Telegraph Publications Clerical Award 2000
- MM Kembla Products (Clerical and Administrative Temporaries) Enterprise Award
- Clerical Employees in Metropolitan Newspapers (State) Award
- TAB Clerical and Administrative Staff PhoneTAB Operators Award 2004
- Clerical and Administrative Employees in Permanent Building Societies (State) Award
- Quarrying Industry (State) Award
- Racecourse Totalisator (State) Award
- Clerical Employees in Retail (State) Award
- TAB Clerical and Administrative Casual Staff Award 2006
- Clerical and Administrative Employees in Temporary Employment Services (State) Award

**Enterprise Agreements with the following National employers:**

- Grace Bros
- K-Mart
- Armaguard
- The Ambulance Service of NSW
- Many of the International Airlines
- David Jones
- Woolworths
- Inghams
- NIB
- Steggles
- TNT
- HCF

39. I am advised by the State Secretary of the USU that the USU has been active in the Industrial Relations Commission of New South Wales in ensuring that these awards were obtained and maintained so that the conditions they provide were industrially appropriate and contemporary.
40. I am further advised that State wage decisions were applied for and flowed on to these awards until the jurisdiction for the employees, covered by a relevant state award, was transferred to the Commonwealth, and those employees became national system employees whose industrial conditions became the subject of a relevant transitional or modern award.
41. I am advised by the State Secretary of the USU that the USU has been active in the workplaces of its members, and in the Industrial Relations Commission of New South Wales, in ensuring that agreements have been made so that the conditions members enjoyed were industrially appropriate and contemporary.
42. I am advised by the State Secretary of the USU that the USU has been active in representing individual members, being members whose entitlement to membership relates to the eligibility the subject of the application, in those members' workplaces and in the Industrial Relations Commission of New South Wales.

43. The class of employees to which the extension of the eligibility rules will apply is covered by the USU's eligibility rules.
44. The USU is not subject to any representation order, State demarcation order or demarcation undertaking or agreement, in favour of another organisation or association, in relation to the class of employees to which the proposed eligibility rules will apply, other than arises out of the memorandum of understanding between the USU and Construction Forestry Mining Energy Union (New South Wales) and Annexure hereto marked with "DS5".
45. The USU has sought and obtained registration initially as a Transitionally Registered Association and is now, in accordance with the FW(RO)A, a Transitionally Recognised Association ("TRA").
46. The USU has utilised its status as a TRA for the purposes of industrially representing members of the USU who would, but for the introduction of the WorkChoices Legislation in 2006, have been non national system employees.

### **NSW Services Union**

47. The NSW Services Union actively represents, or has actively represented, the class or classes of employees to which the extension of eligibility rules will apply.
48. The NSW Services Union is engaged in the following activities in relation to the class of employees to which the extension of eligibility rules will apply:
  - (a) organising and recruitment activity;
  - (b) representing employees in negotiations with employers;
  - (c) representing employees in industrial bodies;
  - (d) obtaining and maintaining award conditions; and
  - (e) collective bargaining.
49. The relevant awards and agreements that apply include as follows:
  - AN120532 – Sydney Water Award 2004 (NSW Award)
  - Sydney Water Enterprise Agreement 2009 – (Federal EBA -The replacement Agreement is currently being voted on)
  - Sydney Catchment Authority Consolidated Award 2012-2013 (NSW Award)
  - Maritime Authority of NSW (trading as NSW Maritime) Enterprise Agreement 2010-2013 – (NSW State Enterprise Agreement)
  - AN120505 – Social and Community Services Employees (State) Award (NSW Award/NAPSA)
  - AN120251 – Hunter Water Australia (State) Award (NSW Award)
  - AN120252 – Hunter Water Corporation Employees (State) Award 1999 (NSW Award)
  - Hunter Water Corporation Employees Enterprise Agreement 2012 (Federal EBA)
  - Enterprise Agreement for Hunter Water Australia Pty Limited General Employees (Federal EBA)
  - State Transit Authority Division of the New South Wales Government Service Senior and Salaried Officers' Enterprise (State) Award 2012 (NSW Award)

- AP818251 - Senior Officers - Rail, Bus and Ferries New South Wales Award 2002 (NSW Award)
- Railcorp Enterprise Agreement 2010 (Federal EBA)
- Sydney Ferries Salaried and Senior Officers Agreement 2011 (Federal EBA)
- ARTC (NSW) Enterprise Agreement 2012 (Federal EBA)
- AP818510 - Salaried Officers' (Railways - New South Wales) Award 2002 (NSW Award)

50. I am advised by the State Secretary of the NSW Services Union that the NSW Services Union has been active in the Industrial Relations Commission of New South Wales in ensuring that these awards were obtained and maintained so that the conditions they provide were industrially appropriate and contemporary.
51. I am further advised that State wage decisions were applied for and flowed on to these awards until the jurisdiction for the employees, covered by a relevant state award, was transferred to the Commonwealth, and those employees became national system employees whose industrial conditions became the subject of a relevant transitional or modern award.
52. I am advised by the State Secretary of the NSW Services Union that the NSW Services Union has been active in the workplaces of its members, and in the Industrial Relations Commission of New South Wales, in ensuring that agreements have been made so that the conditions members enjoyed were industrially appropriate and contemporary.
53. I am advised by the State Secretary of the NSW Services Union that the NSW Services Union has been active in representing individual members, being members whose entitlement to membership relates to the eligibility the subject of the application, in those members' workplaces and in the Industrial Relations Commission of New South Wales.
54. The class of employees to which the extension of the eligibility rules will apply is covered by the NSW Services Union's eligibility rules.
55. The NSW Services Union is not subject to any representation order, State demarcation order or demarcation undertaking or agreement, in favour of another organisation or association, in relation to the class of employees to which the proposed eligibility rules will apply.
56. The NSW Services Union has sought and obtained registration initially as a Transitionally Registered Association and is now, in accordance with the FW(RO)A, a Transitionally Recognised Association ("TRA").
57. The NSW Services Union has utilised its status as a TRA for the purposes of industrially representing members of the NSW Services Union who would, but for the introduction of the WorkChoices Legislation in 2006, have been non national system employees.

#### **ASU (SA)**

58. The ASU (SA) actively represents, or has actively represented, the class or classes of employees to which the extension of eligibility rules will apply.
59. The ASU (SA) is engaged in the following activities in relation to the class of employees to which the extension of eligibility rules will apply:

- (a) organising and recruitment activity;
- (b) representing employees in negotiations with employers;
- (c) representing employees in industrial bodies;
- (d) obtaining and maintaining award conditions; and
- (e) collective bargaining.

60. The relevant awards and agreements that apply include as follows:

- Adelaide University Union Employees Award
- Adelaide Central Mission Constant Care Interim Award
- Blind Welfare Association Lottery Staff Award
- Bulk Handling of Grain Award
- Clerks (Clubs, Hotels & Motels) (SA) Award
- Clerks Metal Industry (SA) Award
- Clerks (Retail Industry) Award
- Clerks (SA) Award
- Credit Union Employees (SA) Award
- Disabilities Services Award
- Flinders University General Staff Award
- Health Services Award
- Metal Industry (SA) Award
- Natural Resources Management Boards Award
- Personal Assistants to the Members of the Parliament of SA Award
- RAA Assistance Centre Award (previously RAA Control Room Operators Award)
- Radio Rentals Ltd Superannuation Award
- Rehabilitation (Vocational) Interim Award
- Retail Industry South Australia Award
- Salaried Lawyers Award
- Social and Community Services Award
- South Australian Municipal, Salaried Officers Award
- South Australian Public Sector Employees Award\*
- South Australian Totalizator Agency Board Award
- Taxi Telephonists & Radio Operators Award
- University of Adelaide General Staff Award
- Vehicle Industry (SA) Repair Service Award

61. I am advised by the State Secretary of the ASU (SA) that the ASU (SA) has been active in the Industrial Relations Commission of South Australia in ensuring that these awards were obtained and maintained so that the conditions they provide were industrially appropriate and contemporary.

62. I am further advised that State wage decisions were applied for and flowed on to these awards until the jurisdiction for the employees, covered by a relevant state award, was transferred to the Commonwealth, and those employees became national system employees whose industrial conditions became the subject of a relevant transitional or modern award.

63. I am advised by the State Secretary of the ASU (SA) that the ASU (SA) has been active in the workplaces of its members, and in the Industrial Relations Commission of South

Australia, in ensuring that agreements have been made so that the conditions members enjoyed were industrially appropriate and contemporary.

64. I am advised by the State Secretary of the ASU (SA) that the ASU (SA) has been active in representing individual members, being members whose entitlement to membership relates to the eligibility the subject of the application, in those members' workplaces and in the Industrial Relations Commission of South Australia.
65. The class of employees to which the extension of the eligibility rules will apply is covered by the ASU (SA)'s eligibility rules.
66. The ASU (SA) is not subject to any representation order, State demarcation order or demarcation undertaking or agreement, in favour of another organisation or association, in relation to the class of employees to which the proposed eligibility rules will apply.
67. I declare the facts contained in this application are to the best of my knowledge true and correct.
68. The facts stated in the application for consent to the alteration are true and correct.

AND I MAKE this declaration conscientiously believing that to the best of my knowledge the statements contained in this declaration are true and correct.

DATED: Monday, 24 December 2012



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**David Smith**  
National Secretary  
Australian Municipal, Administrative, Clerical and Services Union