



A•S•U

File/Our Ref: [DS/db 10.4, 12.21, R2016/233](#)
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Friday 16 December, 2016

Ms B O'Neill
General Manager
Fair Work Commission
GPO Box 1944
MELBOURNE VIC 3001

By E-mail: orgs@fwc.gov.au

**Australian
Services
Union**

**National Office
Melbourne & Sydney**

All correspondence to:

Ground Floor
116 Queensberry St
Carlton South VIC 3053

T: (03) 9342 1400
F: (03) 9342 1499
E: info@asu.asn.au
W: www.asu.asn.au

**National Secretary
David Smith**

Assistant National Secretaries
Greg McLean
Linda White

Dear Ms O'Neill

**Re: R2016/233 - Withdrawal of an Application by the ASU, Australian
Municipal, Administrative, Clerical and Services Union for an Alteration
to Eligibility Rules**

Please find attached a Notice for Withdrawal of an Application by the Australian Services Union for consent to an alteration to its Eligibility Rules in matter: R2016/233.

The Withdrawal is by way of the attached Form F1 signed by the authorised National Officer, and the attached declaration that the withdrawal was made in accordance with the Rules stating the actions taken under the Rules and verifying the facts stated in the application.

The appropriate official to contact at the ASU is John Nucifora email jnucifora@asu.asna.au or 03) 9342 1477.

Yours faithfully

David Smith
National Secretary

Tel: +61 3 9342 1401
Mobile: 0419 644 238
E-mail: dsmith@asu.asn.au

encl : Form F1
Withdrawal Declaration
Annexure A1
Annexure A2

Form F1—Application (No Specific Form Provided)

Fair Work Commission Rules 2013, subrule 8(3) and Schedule 1

This is an application to the Fair Work Commission.

FWC use only
FWC Matter No.: R2016/233

NOTICE OF WITHDRAWAL

The Applicant



These are the details of the person who is making the application.

Title	<input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	David		
Surname	Smith		
Postal address	Ground Floor, 116-124 Queensberry Street		
Suburb	Carlton South		
State or territory	VIC	Postcode	3053
Phone number	03 9342 1400	Fax number	03 9342 1499
Email address	info@asu.asn.au		

If the Applicant is a company or organisation please also provide the following details

Legal name of business	Australian Municipal, Administrative, Clerical and Services Union
Trading name of business	
ABN/ACN	28 519 971 998
Contact person	John Nucifora

How would you prefer us to communicate with you?

Email (you will need to make sure you check your email account regularly)

Post

Does the Applicant have a representative?



A representative is a person or business who is representing the Applicant. This might be a lawyer, a union or a family member or friend who will speak on behalf of the Applicant. There is no requirement to have a representative.

Yes—Provide representative's details below

No

Applicant's representative



These are the details of the person or business who is representing the Applicant.

Name of person	N/A		
Firm, union or company			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

The Respondent



These are the details of the person or business who will be responding to your application to the Commission.

Title	[] Mr [] Mrs [] Ms [] Other please specify:		
First name(s)	N/A		
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

If the respondent is a company or organisation please also provide the following details

Legal name of business	
Trading name of business	
ABN/ACN	
Contact person	

1. The Application

1.1 Please set out the provision(s) of the Fair Work Act 2009 (or any other relevant legislation) under which you are making this application.

Regulation 125D Fair Work (Registered Organisations) Regulations 2009.

2. Order or relief sought

2.1 Please set out the order or relief sought.



Using numbered paragraphs, set out what you are asking the Commission to do.

Withdrawal of Application for alteration of eligibility rules re: R2016/233.

2.2 Please set out grounds for the order or relief sought.



Using numbered paragraphs, set out the grounds, including particulars, on which you are seeking the relief set out in question 2.1.

1. The reason for the withdrawal of the application for alteration of eligibility rules is that due to technical errors in the application, the National Secretary decided to ask the ASU National Executive to formally withdraw the application, in accordance with Rule 49.
2. The decision to withdraw the application was the subject of a Postal/Facsimile/Email Vote of the ASU National Executive declared on 15 December 2016 as follows:

“That in accordance with Regulation 125D of the Fair Work (Registered Organisations) Regulations 2009 National Executive resolves to withdraw the application and then lodge a formal withdrawal application with the Fair Work Commission in R2016/233.”

3. The employer

3.1 What is the industry of the employer?

N/A

4. Industrial instrument(s)

4.1 Please set out any modern award, agreement or other industrial instrument relevant to the application and their ID/Code number(s) if known.

N/A

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	
Name	David Smith
Date	Friday 16 th December, 2016



Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

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

Fair Work (Registered Organisations) Act 2009

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

WITHDRAWAL DECLARATION

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

- A. The Australian Municipal, Administrative, Clerical and Services Union (“ASU”) is an organisation registered under the *Fair Work (Registered Organisations) Act 2009*.
- B. I am the National Secretary of the ASU and am authorised to make this Declaration.
- C. The National Executive of the ASU has resolved to withdraw its application for consent to the alteration of Eligibility Rules in R2016/233 to amend PART XXVII in Rule 5b Eligibility for Membership by inserting new sub rules (d), (e) and (f).

The action taken pursuant to the ASU rules to withdraw the application was as follows:

- D. The manner in which compliance with the rules of the ASU was obtained is as follows: I confirm that on **13 December 2016**, in accordance with rule 49 I submitted a withdrawal of the Application for Consent to Alteration to the rules recommendation to the National Executive.
- E. On the **13 December 2016** in accordance with sub-rule 8j a Postal/Facsimile/Email Vote was submitted to all National Executive members via email attached hereto and marked **Annexure A1**. This included a recommendation to withdraw the original application contained in R2016/233.
- F. On the **13 December 2016**, the ASU National Executive through an Postal/Facsimile/Email Vote carried the following recommendation:

“That in accordance with Regulation 125D of the Fair Work (Registered Organisations) Regulations 2009 National Executive resolves to withdraw the application and then lodge a formal withdrawal application with the Fair Work Commission in R2016/233.”
- G. A total of **126.17** affirmative votes were received. Of the total of 138 votes allocated to members of the National Executive in accordance with sub-rule 8c, I declared the vote carried pursuant to sub-rule 8j of the rules of the ASU. Attached hereto and marked **Annexure A2** is a copy of my correspondence to National Executive members of the **15 December 2016** declaring the result of the ballot.
- H. The withdrawal of the application for consent to alteration to the rules was made in accordance with the rules of the organisation in particular Rule 49.
- I. Pursuant to Regulation 126(1)(b) the notice for this rule alteration withdrawal has been published on the ASU website and can be viewed at www.asu.asn.au/about/rules.
- J. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

DATED: Friday 16th December 2016



DAVID SMITH
National Secretary
Australian Municipal, Administrative, Clerical and Services Union



A•S•U

File/Our Ref: [DS/db 10.4, 12.21 & R2016/233](#)
Your Ref:
Please quote in reply

Tuesday 13th December 2016

TO: All National Executive Members
as addressed

By E-mail

Dear National Executive Member

**Postal/Fax/Email Vote No. 13/2016
Withdrawal of Amendment and Proposed Rule Change PART XXVII new sub rules
(d), (e) & (f) re ASU (SA) State Union eligibility**

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National Secretary
David Smith

Assistant National Secretaries
Greg McLean
Linda White

The Regulatory Compliance Branch of Fair Work Commission has identified a drafting problem with the ASU's application to alter the eligibility rules in relation to the s158A ASU (SA) State Union eligibility National rule change PART XXVII new sub rules (d), (e) & (f) lodged on 7 October 2016 in R2016/233.

After due consideration and extensive discussion with the FWC, I have decided unfortunately, the only option available to the ASU is to formally withdraw the current application, re-ballot the recommendation with the updated rule alteration and file a new application.

As per Rule 49 I as National Secretary propose the following recommendations:

1. withdrawal of the original application R2016/233; and
2. endorsement of the attached recommendation for the new rule alteration.

Accordingly, please find attached the voting paper with the proposed amendments to the ASU National Rules and I recommend that you vote to support them. Also attached is the original rule with tracked changes and the further correction highlighted in yellow.

I request your prompt response in regard to the attached Recommendation so that the proposed amendments to the ASU National Rules can be submitted to the Fair Work Commission for certification, as soon as possible.

Yours faithfully

Tel: +61 3 9342 1401
Mobile: 0419 644 238
E-mail: dsmith@asu.asn.au

David Smith
NATIONAL SECRETARY

[enc](#)

**VOTING PAPER
Postal/Fax/Email Vote No. 13/2016
Withdrawal of Amendment and Proposed Rule Change PART XXVII new sub rules
(d), (e) & (f) re ASU (SA) State Union eligibility**

The Regulatory Compliance Branch of Fair Work Commission has identified a drafting problem with the ASU's application to alter the eligibility rules in relation to the s158A ASU (SA) State Union eligibility National rule change PART XXVII new sub rules (d), (e) & (f) lodged on 7 October 2016 in R2016/233. The drafting problem relates to the specific reference in sub rule (e) to the State of South Australia as highlighted in yellow shading in the attached original rule with tracked changes.

I have decided to formally withdraw the application and re-ballot the recommendation with the correct rule alteration.

As per Rule 49 I as the National Secretary propose the following recommendations:

Recommendation 1:

"That in accordance with Regulation 125D of the Fair Work (Registered Organisations) Regulations 2009 National Executive resolves to withdraw the application and then lodge a formal withdrawal application with the Fair Work Commission in R2016/233."

I support recommendation 1:

YES

NO

Signed

Print Name

Dated



A•S•U

File/Our Ref: [DS/db 12.21](#)
Your Ref:
Please quote in reply

Thursday, 15 December 2016

TO: All National Executive Members
As addressed

By E-mail

Dear National Executive Member

**Postal/Fax/Email Vote No. 13/2016
Withdrawal of Amendment and Proposed Rule Change PART XXVII new sub
rules (d), (e) & (f) re ASU (SA) State Union eligibility**

The result of the e-mail ballot submitted to members of National Executive via e-mail on 13 December 2016, regarding the above is as follows:

A total of 126.17 affirmative votes were received from:

David Smith
Linda White
Greg McLean
Alex Scott
Irene Monro
Vivienne Doogan
Natalie Lang
Judith Wright
Angus McFarland
Graeme Kelly
Stephen Birney
Sharon Sewell
Neil Henderson
Jennifer Thomas
Lynette Henson
Joseph Scales
Abbie Spencer
Jeff Lapidos
Ance! Greenwood
Richard Duffy
Wendy Phillips
Ingrid Stitt
David Leydon
Wayne Wood

No negative votes were received. I advise that National Executive E-mail Vote No. 13/2016 is carried.

Yours faithfully

David Smith
National Secretary

Tel: +61 3 9342 1401
Mobile: 0419 644 238
E-mail: dsmith@asu.asn.au

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