

19 April 2024

Post-election report

Australian Municipal, Administrative,
Clerical and Services Union
Scheduled Election
E2023/35

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Election(s) Covered in Post-Election Report (PER)

Organisation:	Australian Municipal, Administrative, Clerical and Services Union	
Election Decision No:	E2023/35	
Election:	Scheduled	
Date the Nominations closed:	Direct Elections:	<ul style="list-style-type: none">• 24 June 2023 (Scheduled) All Branches• Queensland Together Branch: 23 August 2023 (Insufficient Nominations)
	Collegiate Elections:	<ul style="list-style-type: none">• South Australia and NT Branch (Deputy VP): 11 July 2023 (Scheduled)• National Branch: 02 August 2023 (Scheduled)• Queensland Together Branch (Public Service Division): 25 August 2023 (Scheduled)• Queensland Services and Northern Administration Branch: 01 September 2023 (Scheduled)• New South Wales and ACT Branch: 30 November 2023 (Scheduled)• South Australia and NT Branch (Branch Conference): 07 December 2023 (Scheduled)• Queensland Together Branch (General/Public Health Division): 14 December 2023 (Scheduled)• Queensland Together Branch (Public Service Division): 14 December 2023 (Insufficient Nominations)• Queensland Together Branch (General/Public Health Division): 6 March 2024 (Insufficient Nominations)
Date Ballot closed:	Direct Elections:	<ul style="list-style-type: none">• Queensland Together Branch: 19 July 2023 (Scheduled)• Victorian Private Sector Branch: 19 July 2023 (Scheduled)• Queensland Together Branch: 18 October 2023 (Insufficient Nominations)
	Collegiate Elections:	<ul style="list-style-type: none">• Queensland Services and Northern Administration Branch: 02 October 2023 (Scheduled)• Queensland Together Branch General/Public Health Division): 08 February 2024 (Scheduled)• Queensland Together Branch (Public Service Division): 08 February 2024 (Insufficient Nominations)
Date results declared:	Direct Elections:	Uncontested: <ul style="list-style-type: none">• 01 June 2023 (Scheduled) (all branches except Queensland Together Branch)• Queensland Together Branch: 14 July 2023 (Scheduled)• Queensland Together Branch: 31 August 2023 (Insufficient Nominations) Contested: <ul style="list-style-type: none">• Queensland Together Branch: 20 July 2023 (Scheduled)

Collegiate Elections:

- Victorian Private Sector Branch: 20 July 2023 (Scheduled)
- Queensland Together Branch: 20 October 2023 (Insufficient Nominations)

Uncontested:

- South Australia and NT Branch (Deputy VP): 12 July 2023 (Scheduled)
- National Branch: 09 August 2023 (Scheduled)
- Queensland Together Branch (Public Service Division): 06 September 2023 (Scheduled)
- New South Wales and ACT Branch: 30 November 2023 (Scheduled)
- South Australia and NT Branch (Branch Conference): 08 December 2023 (Scheduled)
- Queensland Together Branch (General/Public Health Division): 08 January 2024 (Scheduled)
- Queensland Together Branch (Public Service Division): 08 January 2024 (Insufficient Nominations)
- Queensland Together Branch (General/Public Health Division): 20 March 2024 (Insufficient Nominations)

Contested:

- Queensland Services and Northern Administration Branch: 02 October 2023 (Scheduled)
- Queensland Together Branch General/Public Health Division: 09 February 2024 (Scheduled)
- Queensland Together Branch (Public Service Division): 09 February 2024 (Insufficient Nominations)

Date PER due: 19/4/2024

Relevant legal provisions

Fair Work (Registered Organisations) Act 2009 ('the Act')

197 Post-election report by AEC

Requirement for AEC to make report

- (1) After the completion of an election conducted under this Part by the AEC, the AEC must give a written report on the conduct of the election to:
 - (a) the General Manager; and
 - (b) the organisation or branch for whom the election was conducted.

Note: The AEC may be able, in the same report, to report on more than one election it has conducted for an organisation. However, regulations made under paragraph 359(2)(c) may impose requirements about the manner and timing of reports.

- (2) The report must include details of the prescribed matters.

Contents of report—register of members

- (3) If the AEC is of the opinion that the register of members, or the part of the register, made available to the AEC for the purposes of the election contained, at the time of the election:
 - (a) an unusually large proportion of members' addresses that were not current; or
 - (b) in the case of a register kept by an organisation of employees—an unusually large proportion of members' addresses that were workplace addresses;

this fact must be included in the report, together with a reference to any relevant model rules which, in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: Model rules are relevant only to the conduct of elections for office, not for elections for other positions (see section 147).

Contents of report—difficult rules

- (4) If the report identifies a rule of the organisation or branch that, in the AEC's opinion, was difficult to interpret or apply in relation to the conduct of the election, the report must also refer to any relevant model rules, which in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: For model rules, see section 147.

Subsection (3) relevant only for postal ballots

- (5) Subsection (3) applies only in relation to elections conducted by postal ballot.

Note: An organisation can obtain an exemption from the requirement to hold elections for office by postal ballot (see section 144).

190 Organisation or branch must not assist one candidate over another

An organisation or branch commits an offence if it uses, or allows to be used, its property or resources to help a candidate against another candidate in an election under this Part for an office or other position.

Penalty: 100 penalty units.

193 Provisions applicable to elections conducted by AEC

- (1) If an electoral official is conducting an election, or taking a step in relation to an election, for an office or other position in an organisation, or branch of an organisation, the electoral official:
 - (a) subject to paragraph (b), must comply with the rules of the organisation or branch; and

- (b) may, in spite of anything in the rules of the organisation or branch, take such action, and give such directions, as the electoral official considers necessary:
 - (i) to ensure that no irregularities occur in or in relation to the election; or
 - (ii) to remedy any procedural defects that appear to the electoral official to exist in the rules; or
 - (iii) to ensure the security of ballot papers and envelopes that are for use, or used, in the election.
- (2) A person commits an offence if the person does not comply with a direction under subsection (1).
Penalty: 30 penalty units.
- (3) Subsection (2) does not apply so far as the person is not capable of complying.
Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).
- (4) Subsection (2) does not apply if the person has a reasonable excuse.
Note: A defendant bears an evidential burden in relation to the matter mentioned in subsection (4), see subsection 13.3(3) of the *Criminal Code*.
- (5) An offence against subsection (2) is an offence of strict liability.
Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (6) An election for an office or other position conducted by an electoral official, or step taken in relation to such an election, is not invalid merely because of a breach of the rules of the organisation or branch because of:
 - (a) action taken under subsection (1); or
 - (b) an act done in compliance with a direction under subsection (1).
- (7) If an electoral official conducting, or taking a step in connection with, an election for an office or other position:
 - (a) dies or becomes unable to complete the conduct of the election or the taking of the step; or
 - (b) ceases to be qualified to conduct the election or to take the step;
 the Electoral Commissioner must arrange for the completion of the conduct of the election, or the taking of the step, by another electoral official.

6 Definitions

irregularity, in relation to an election or ballot, includes:

- (a) a breach of the rules of an organisation or branch of an organisation; and
- (b) an act or omission by means of which:
 - (i) the full and free recording of votes by all persons entitled to record votes and by no other persons; or
 - (ii) a correct ascertainment or declaration of the results of the voting; is, or is attempted to be, prevented or hindered; and
- (c) a contravention of section 190.

Fair Work (Registered Organisations) Regulations 2009 ('the Regulations')

140 Declaration of result of election (s 193)

- (1) Within 14 days after the closing day of an election, the AEC must issue a declaration stating the following:
 - (a) the total number of persons on the roll of voters;
 - (b) the total number of ballot papers issued (if applicable);
 - (c) the total number of envelopes that were returned undelivered by the closing day of the ballot to the AEC (if applicable);

- (d) the total number of ballot papers received by the electoral official by the closing day of the ballot (if applicable);
 - (e) the result of the election;
 - (f) the total number of informal ballot papers (if applicable).
- (2) In subregulation (1), ***closing day***, for an election, means:
- (a) if a ballot is not required—the day on which nominations for the election close; or
 - (b) if a ballot is required—the closing day of the ballot.
- (3) Immediately after issuing a declaration under subregulation (1), the AEC must give a copy of the declaration to:
- (a) the General Manager; and
 - (b) the organisation or branch for whom the election was conducted.

141 Post-election report by AEC (s 197(2))

- (1) For subsection 197(2) of the Act, the following matters are prescribed for inclusion in the report (the ***post-election report***) given under subsection 197(1) of the Act:
- (a) the declaration mentioned in regulation 140;
 - (b) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
 - (c) any matters in relation to the roll of voters including those matters contained in subsection 197(3) of the Act;
 - (d) the number of written allegations (if any) of irregularities made to the AEC during the election;
 - (e) action taken by the AEC in relation to those allegations;
 - (f) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
- (a) give the post-election report within 30 days after the closing day of the election; and
 - (b) publish a notice on its web site advising that a copy of the post-election report can be obtained from the AEC on the request of a member who was eligible to vote in the election.
- (3) The AEC must supply a copy of the post-election report to the member as soon as practicable, but no later than 7 days, after receiving a request under paragraph (2)(b).

145 Elections conducted by AEC—no unauthorised action

- (1) For any election conducted by the AEC under Part 2 of Chapter 7 of the Act, a person other than the person conducting the election must not do, or purport to do, any act in the conduct of the election other than as directed or authorised by the person conducting the election.

Note: This subregulation is a civil penalty provision (see regulation 168).

- (2) The AEC must advise the General Manager of a possible contravention of subregulation (1) not later than 21 days after the AEC has become aware of the possible contravention.

Declaration of result of election

In accordance with reg 140 of the Regulations, the AEC issued a declaration of the result of election E2023/35 on various dates for both Uncontested and Contested Offices. For a copy, see **Attachments A to X**.

Australian Municipal, Administrative, Clerical and Services Union Rules

Rules used for the election: 052V: Incorporates alterations of 1 May 2023 [R2023/27] (replaces rulebook dated 5 April 2023 (R2023/5))

The following ASU Rules were ambiguous, and difficult to interpret or apply:

Part VIIIA Rule 71 - PROCEDURE AT ELECTIONS

Rule 71 (g)

The Branch Returning Officer conducting the respective election must:

- i. provide a draft of the proposed ballot paper to the Branch Secretary to enable the Branch Secretary to consider the proposed ballot paper;
- ii. consult with the respective Branch Secretary in relation to whether the ballot paper is compliant with the electoral rules prior to printing the ballot papers for the election; and
- iii. have the Branch Secretary certify in writing that the draft ballot paper accords with the requirements of the ASU Rules.

The AEC's policies and procedures stipulate that draft ballot papers are not provided to the organisation or candidates prior to the ballot opening.

Part VIIIA Rule 76 - ASSUMPTION AND TENURE OF OFFICE

76(b) The Returning Officer conducting the respective election is to declare the candidates elected in that election:

- i. where the number of candidates for the offices to be elected in the election do not exceed the number of offices to be filled, as soon as is practicable but no later than ten (10) days after the close of nominations; or
- ii. where a ballot is required for all, or some, of the offices to be elected in the same election as soon as is practicable but no later than ten (10) days, after the close of the ballot.

In accordance with the Regulations, reg 140 Declaration of result of election the AEC has 14 days after the closing day of an election to declare the results of the election.

New rules were certified on 12 March 2024

052V: Incorporate alteration of 12 March 2024 [R2023/136]
(replace rulebook dates 1 May 2023 (R2023/27))

Part IX - Branch Rules

Division Two A – Queensland Together Branch Rules

Changes to Queensland Together Branch Rule 38 Proportional Representation – a number of the clauses have been removed from the organisation's previous rules, which were:

052V: Incorporate alteration of 1 May 2023 [R2023].

Sub-clauses d. to g. in the previous rules have been removed in the new rules, which removes the reference to the method used to calculate the quota for Branch Executive Member (Women).

Additional sub-clauses h. to l. have also been removed. These sub-clauses referred to conducting an election for Branch Council (Women) in the event that the number of women elected to the Branch Council does not equal or exceed the number required in sub-clause a. Nor do the new rules provide details for the calculation of the quota for the Branch Council (Women) positions.

While the required proportion of women elected to the Branch Executive was achieved, this was not achieved for the Branch Council. However, as rule 38(h) has been removed there is now no direction to call for further nominations.

Roll of Voters

The AEC did not identify any matters in relation to the roll of voters including those matters contained in subsection 197(3) of the Act.

Written allegations of any irregularities

The AEC did not receive any written allegations of irregularities during the election.

Other irregularities

The AEC did not identify any other irregularities.

Signed

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19 April 2024

Attachments

- A. Stage 1 NSW/ACT - Declaration of Results (Uncontested)
- B. Stage 1 NSW LGCA - Declaration of Results (Uncontested)
- C. Stage 1 QLD Branch (Services and Northern Administrative) - Declaration of Results (Uncontested)
- D. Stage 1 ASU SA/NT - Declaration of Results (Uncontested)
- E. Stage 1 ASU Tax Officers' Branch - Declaration of Results (Uncontested)
- F. Stage 1 ASU VIC/TAS Authorities and Services - Declaration of Results (Uncontested)
- G. Stage 1 ASU WA - Declaration of Results (Uncontested)
- H. Stage 1 ASU QLD Together Branch - Declaration of Results (Uncontested)
- I. Stage 1 ASU QLD Together Branch - Declaration of Results (Contested)
- J. Stage 1 ASU VIC Private Sector - Declaration of Results (Uncontested)
- K. Stage 1 ASU VIC Private Sector - Declaration of Results (Contested)
- L. Stage 1 ASU QLD Together Branch - Declaration of Results (Uncontested) - Insufficient Nominations
- M. Stage 1 ASU QLD Together Branch - Declaration of Results (Contested) - Insufficient Nominations
- N. Stage 2 ASU SA/NT - Declaration of Results (Uncontested) (Branch Dep. President Election)
- O. Stage 2 ASU Federal - Declaration of Results (Uncontested)
- P. Stage 2 ASU QLD Together Branch - Declaration of Results (Uncontested) (Public Service Industry Branch Conference Members)
- Q. Stage 2 ASU QLD Branch (Services and Northern Administrative) - Declaration of Results (Contested)

- R. Stage 2 ASU NSW & ACT (Services) Branch - Declaration of Results (Uncontested)
- S. Stage 2 ASU SA/NT - Declaration of Results (Uncontested) (Conference Delegates)
- T. Stage 2 ASU QLD Together Branch - Declaration of Results (Uncontested) (General / Public Health Industry Branch Conference Members)
- U. Stage 2 ASU QLD Together Branch - Declaration of Results (Contested) (General / Public Health Industry Branch Conference Members)
- V. Stage 2 ASU QLD Together Branch - Declaration of Results (Uncontested) - Insufficient Nominations (Public Service Industry Branch Conference Members)
- W. Stage 2 ASU QLD Together Branch - Declaration of Results (Contested) - Insufficient Nominations (Public Service Industry Branch Conference Members)
- X. Stage 2 ASU QLD Together Branch - Declaration of Results (Uncontested) – Insufficient Nominations (General / Public Health Industry Branch Conference Members)