



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

Tuesday, 9 December 2014

The General Manager
Fair Work Commission
Attention: Sarah Wilkin

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

Dear Sir

Re: Withdrawal of Amendments to Division Seven of the New South Wales and ACT (Services) Branch and proposed new rules of Division Seven of the New South Wales and ACT (Services) Branch

I submit the following withdrawal and rule change for certification.

The ASU requests to withdraw the application in relation to R2014/228 dated 22 September 2014 and submit the following rule change for certification by the Fair Work Commission.

Accordingly, I lodge with this letter a Notice Setting out the Particulars of the Australian Municipal, Administrative, Clerical and Services Union. Alterations to the Rules of the ASU, Declarations pursuant to Section 159(1) of the Fair Work (Registered Organisations) Act 2009 and Regulation 126 of the Fair Work (Registered Organisations) Regulations 2009.

The alterations concern DIVISION SEVEN and are the rules of the NEW SOUTH WALES & ACT (SERVICES) BRANCH RULES of the Australian Municipal, Administrative, Clerical and Services Union as follows:

1. Delete Rule 10 and insert in lieu thereof the following:

“10 – BRANCH COUNCIL MEMBERSHIP

a. Up until the declaration of the poll in the quadrennial elections to be held in 2015, the Branch Council shall consist of the Branch Executive and Councillors representing the Transport Industry, the Water and Ports Industry, the Social and Community Services Industry, the Hunter Water Industry, and the Airline, Shipping, Travel and IT Industry (known as the Private Sector Industries Group) elected in accordance with these rules and in accordance with the formula set out below:

Less than 200 members employed in the industry	1 delegate
200 – 399	2 delegates
400 – 599	3 delegates
600 – 999	4 delegates
Thereafter, each additional 500 or part thereof	1 additional delegate

b. Provided that on and from the declaration of the poll in the quadrennial elections to be held in 2015, the Branch Council shall consist of the Branch Executive and Councillors representing the Branch Industry Divisions. The Councillors shall be the members of the respective Branch Industry Division Committees of Management.

**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

2. Delete Rule 13 and insert in lieu thereof the following:

“13 – VOTING ON BRANCH COUNCIL

- a. Each member of the Branch Council shall be entitled to one (1) vote.
- b. Provided that on and from the quadrennial elections to be held in 2015, the number of votes which each member of the Branch Council shall be entitled to is as follows:
 - i. Each Councillor who is a member of the Branch Executive shall be entitled to one (1) vote.
 - ii. The numbers of votes assigned to each Councillor who represents a Branch Industry Division shall be calculated in accordance with the following formula:
 - A. By dividing the total number of the members of the Branch Industry Division employed in the relevant industry by 250. The number of members shall be determined by the lowest number of members in each industry division as at the last day of each of the months of October, November and December in the year preceding an election, other than an election to fill a casual vacancy.
 - B. The number obtained by Rule 13 b ii A shall be rounded up to the nearest whole number that can be equally divided by the number of Councillors representing a Branch Industry Division other than those Councillors who are members of the Branch Executive. This final number shall be divided between each Councillor and shall be the number of votes assigned to each Councillor.

3. Delete Rule 25 a.

4. Re-number Rule 25 b as Rule 25 a.

5. Re-number Rule 25 c as Rule 25 b.

6. Delete from new Rule 25 a the words “From the quadrennial elections to be held in 2011 there...” in the first line and insert in lieu thereof the word “There”.

7. Delete Rule 26 a, b and c and insert in lieu thereof the following:

- a. Water and Ports Industry Division Committee of Management

The Water and Ports Industry Division Committee of Management shall consist of a President, Vice President, Treasurer and three (3) Executive members who shall form the Executive and twelve (12) Committee Members. Members of the Water and Ports Industry Division Committee of Management shall hold office for a period of four (4) years. All members of the Water and Ports Industry Division Committee of Management shall be elected by all financial members of the Branch employed in the Water and Ports Industry Division in accordance with these rules.

- b. Social and Community Services Division Committee of Management

- (i) The Social and Community Services Division Committee of Management shall consist of the President, one (1) Vice-President (New South Wales), one (1) Vice-President (Australian Capital Territory) and an additional four (4) Committee members elected by all financial members of the Branch employed in the Social and Community Services Industry. There shall also be one (1) committee member representing each Sub-Division established in accordance with Rule 35. Committee members shall be elected by all financial members of the relevant Sub-Division.

- (ii) The President shall be elected by all financial members of the Branch employed in the Social and Community Services Industry in accordance with the rules.

- (iii) The Vice-President (New South Wales) shall be elected by all financial members of all Sub-Divisions created pursuant to Rule 35 other than the Australian Capital Territory Sub-Division.
- (iv) The Vice-President (Australian Capital Territory) shall be elected by all financial members of the Australian Capital Territory Sub-Division.

8. Renumber current Rule 26 d as Rule 26 c.

9. Delete current Rule 26 e.

10. Renumber current rule 26 f as Rule 26 d.

11. Delete the current rule 26 g (i) and 26 g (ii).

12. Insert a new rule 26 e in the following terms

“e. Airlines, Shipping, Travel and IT Industry Division Committee of Management.

The Committee of Management shall be known as the Airlines, Shipping, Travel and IT Industry Committee of Management and shall consist of a President, a Vice-President, and six (6) Committee Members. All Members of the Airlines, Shipping, Travel and IT Industry Division Committee of Management shall be elected by all financial members of the Branch employed in the Airlines, Shipping, Travel and IT Industry in accordance with these rules. “

13. Renumber current rule 26 h as Rule 26 f.

14. Insert the word “ordinarily” before the words “at least once three (3) months” in the first line of Rule 28.

If you require further information, please do not hesitate to contact me at this office or John Nucifora, Compliance & Legal Officer jnucifora@asu.asn.au or 03) 9342 1477.

Yours sincerely



David Smith
National Secretary

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

Encl.

Fair Work (Registered Organisations) Act 2009

**NOTICE SETTING OUT THE PARTICULARS OF THE ALTERATIONS TO THE RULES OF THE
AUSTRALIAN MUNICIPAL, ADMINISTRATIVE, CLERICAL AND SERVICES UNION
REGULATION 126**

DECLARATION REGULATION 126 (2)

I, DAVID SMITH, of Ground Floor, 116-124 Queensberry Street, Carlton South, State of Victoria:

1. I am National Secretary of the Australian Municipal, Administrative, Clerical and Services Union ("ASU"), an organisation of employees registered under the Fair Work (Registered Organisations) Act 2009 ("the Act") and I am authorised to make this statement for and on behalf of the ASU and to sign the "Notice Setting out the Particulars of the Alterations to the Rules of the Union".
2. The particulars set out in this "Notice Setting out the Particulars of the Alterations to the Rules of the Australian Municipal, Administrative, Clerical and Services Union" dated **9 December 2014**, lodged herein are correct.
3. The alterations were made in accordance with the Rules of the ASU.
4. The manner in which compliance with the Rules of the ASU was obtained is as follows:
 - a) Michael Flinn the Assistant Branch Secretary of the NSW & ACT (Services) Branch advised the National Secretary in an email dated **5 December 2014** attached hereto marked "**1**", requesting the proposed changes to the rules be submitted to a vote of National Executive as soon as possible.
 - b) I confirm that on **8 December 2014**, a Postal/Fax/E-mail Ballot was submitted to all National Executive members via e-mail and members were provided with a copy of the email from the NSW & ACT (Services) Branch together with the proposed amendments to the rules.
 - c) On the **9 December 2014**, a total of 117 affirmative votes were received. Of the total of 129 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 "**2**" is a copy of my correspondence to National Executive members of the **9 December 2014** declaring the result of the ballot.
5. Pursuant to Regulation 126(1)(b) the notice for this rule alteration has been published on the ASU website and can be viewed at www.asu.asn.au/about/rules.
6. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

DATED: Tuesday 9th December, 2014



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

Dani Brooks

From: David Smith
Sent: Friday, 5 December 2014 11:21 AM
To: Dani Brooks; John Nucifora
Subject: Fwd: rule change
Attachments: Proposed rule alternations - ASU NSW & ACT (Service) Branch.pdf; ATT00001.htm

Follow Up Flag: Follow up
Flag Status: Flagged

Can you please prepare a postal vote the motion will need to be similar to the qld s&a branch rule to withdraw current application and replace with this one

David smith
National secretary ASU
Sent from my iPhone
Ph 03 93421400

Begin forwarded message:

From: Michael Flinn <michael@asu.org.au>
Date: 5 December 2014 11:09:01 am AEDT
To: "dsmith@asu.asn.au" <dsmith@asu.asn.au>
Cc: "jnucifora@asu.asn.au" <jnucifora@asu.asn.au>, Natalie Lang <Natalie@asu.org.au>, Judith Wright <judith@asu.org.au>
Subject: FW: rule change

Dear David,
Please find attached rule changes adopted by the Branch Executive at its meeting on December 4th.
I would be grateful if these could be committed to a vote of the National Executive as soon as possible and subsequently lodged with FWA.

Michael flinn

From: Trish O'Neill
Sent: Friday, 5 December 2014 11:07 AM
To: Michael Flinn
Subject: rule change

Message protected by MailGuard: e-mail anti-virus, anti-spam and content filtering.
<http://www.mailguard.com.au>

[Report this message as spam](#)

TO: SALLY MCMANUS
FROM: MICHAEL FLINN
RE: RULE CHANGES

28/11/14

1. At its September meeting the Branch Executive approved a number of rule changes. A copy of the paper provided to that meeting explaining the nature of the changes and the proposed rule changes is attached.
2. These changes were subsequently approved by the national executive and then provided to FWA.
3. FWA has raised a number of significant issues in relation to those parts of the rule change that relate to the SACS Division. These include:
 - a. That the new SACS Delegates Council did not constitute a body of "officers" but was rather a body that would advise the SACS COM and accordingly it could not automatically place members on the Branch Council which is a body of "officers" under the rules. N.B. A body of officers is a body comprised of persons who are elected to be officers of the union and their rights and responsibilities are clearly understood and documented.
 - b. Should we make the SACS Delegates Council a body of officers then we would need to provide rules setting out its rights and responsibilities and its relationship to the executive. Further as the persons so elected would be officers they would in turn be elected for a four year terms and any vacancies in that term would be treated as a casual vacancy under the rules.
 - c. Consequently there would be implications for the composition of the council as the council was to be made up of members of the industry COMS, save that in the case of SACS it was to have been the members of the SACS Delegates Council.
4. These discussions caused us to rethink how we might achieve our objective without running foul of the law.
5. It should be noted that Rule 35 A allows the executive to establish Industry Delegates Councils and to determine rules governing their operation. On that basis we have decided to do as follows:
 - a. Rescind the rule changes made at the September meeting

- b. Proceed with the rule changes in relation to the Branch Council
 - c. Not change the rules in relation to the creating of a SACS Delegates Council
 - d. Use rule 35 to establish a SACS Delegates council
6. Doing the above would allow the following:
- a. Create a SACS Executive of approximately 26
 - b. Establishment of a new Branch council comprised of all of the members of the industry divisional committees of management.
 - c. The establishment of new SACS industry Subdivisions that would regulate the number of persons on SACS COM and the inter-relationship of the SACS COM and Delegates council
 - d. Approve the establishment of a SACS delegates council in accordance with rule 35 A
 1. From the first Quadrennial election to be held in 2015 the Social and Community Services Delegates Council shall consist of all of the members set out below.
 - i. All of the members of the Social and Community Services Division Committee of Management
 - ii. One (1) delegate for every 300 members or part thereof for each member assigned to each sub-division of the Division as provided in Rule 35 save that the first of these representatives shall be filled by the person filling the position on the SACS COM.
 2. Each member of the Social and Community Services Delegates Council shall be entitled to cast a single vote save that the President shall be entitled to cast both a deliberative and casting vote.

This meeting resolves as follows:

- rescinds its decision in relation to rule changes adopted at its last meeting
- approves the rule changes table at this meeting and attached to this report
- approves the establishment of a SACS Delegates Council as set out in the attachment
- approves of the industry sub divisions proposed by the SACS Com and the associated rules in relation to their operation

Proposed Rule Alterations – ASU NSW & ACT (Services) Branch

1. Delete Rule 10 and insert in lieu thereof the following:

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- b. Provided that on and from the declaration of the poll in the quadrennial elections to be held in 2015, the Branch Council shall consist of the Branch Executive and Councillors representing the Branch Industry Divisions. The Councillors shall be the members of the respective Branch Industry Division Committees of Management.

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 - B. The number obtained by Rule 13 b ii A shall be rounded up to the nearest whole number that can be equally divided by the number of Councillors representing a Branch Industry Division other than those Councillors who are members of the Branch Executive. This final number shall be divided between each Councillor and shall be the number of votes assigned to each Councillor.

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6. Delete from new Rule 25 a the words “From the quadrennial elections to be held in 2011 there...” in the first line and insert in lieu thereof the word “There”.
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 - (i) The Social and Community Services Division Committee of Management shall consist of the President, one (1) Vice-President (New South Wales), one (1) Vice-President (Australian Capital Territory) and an additional four (4) Committee members elected by all financial members of the Branch employed in the Social and Community Services Industry. There shall also be one (1) committee member representing each Sub-Division established in accordance with Rule 35. Committee members shall be elected by all financial members of the relevant Sub-Division.
 - (ii) The President shall be elected by all financial members of the Branch employed in the Social and Community Services Industry in accordance with the rules.
 - (iii) The Vice-President (New South Wales) shall be elected by all financial members of all Sub-Divisions created pursuant to Rule 35 other than the Australian Capital Territory Sub-Division.
 - (iv) The Vice-President (Australian Capital Territory) shall be elected by all financial members of the Australian Capital Territory Sub-Division.
8. Renumber current Rule 26 d as Rule 26 c.
9. Delete current Rule 26 e.
10. Renumber current rule 26 f as Rule 26 d.
11. Delete the current rule 26 g (i) and 26 g (ii).
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13. Renumber current rule 26 h as Rule 26 f.
14. Insert the word “ordinarily” before the words “at least once three (3) months” in the first line of Rule 28.



A•S•U

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Tuesday, 9 December 2014

TO: All National Executive Members
As addressed

By E-mail

Dear National Executive Member

**Postal/Fax/Email Vote No. 10/2014
Proposed NSW & ACT (Services) Branch rule changes**

**Australian
Services
Union**

**National Office
Melbourne & Sydney**

All correspondence to:

Ground Floor
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Carlton South VIC 3053

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W: www.asu.asn.au

National Secretary
David Smith

Assistant National Secretaries
Greg McLean
Linda White

The result of the e-mail ballot submitted to members of National Executive via e-mail on 8th December 2014, regarding the above is as follows:

A total of 117 affirmative votes were received from:

David Smith
Linda White
Greg McLean
Irene Munro
Sally McManus
Michael Flinn
Graeme Kelly
Stephen Birney
Neil Henderson
Jennifer Thomas
Joseph Scales
Abbie Spencer
Jeff Lapidos
Ancel Greenwood
Richard Duffy
Russell Atwood
Ingrid Stitt
Wayne Wood

No negative votes were received.

I advise that National Executive E-mail Vote No. 10/2014 is carried.

Yours faithfully

David Smith
National Secretary

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