

Fair Work (Registered Organisations) Act 2009

Section 183 – Application for organisation or branch to conduct its elections for office

Fair Work (Registered Organisations) Regulations 2009

Regulation 133 - Application for organisation or branch to conduct its elections for office

UNITED WORKERS' UNION

The Applications

1. Applications are hereby made by the United Workers' Union (UWU) for the organisation to conduct its elections for the following offices:
 - 1.1 Member Councilors; and
 - 1.2 National Officers

Relevant Facts

1. The UWU will shortly be filing Prescribed Information (PI) with the Registered Organisations Commission (ROC) as required under section 189 of the *Fair Work (Registered Organisations) Act 2009 (RO Act)*¹.
2. The PI relates to the conduct of three elections required to occur in 2022 under the Rules of the UWU, namely:
 - 2.1 Convention Delegates (**the first election**), which is a direct election;
 - 2.2 Member Councillors (**the second election**), which is a collegiate election; and
 - 2.3 National Officers (**the third election**), which is also a collegiate election.
3. Relevant dates pertaining to the first election include:
 - 3.1 1 March 2022 – opening of nominations [Rule 3(a) of Schedule 4];
 - 3.2 22 March 2022 – closing of nominations [Rule 3(b) of Schedule 4];

¹ No later than close of business 16 December 2021.

- 3.3 The opening of ballots, if and as required, on a day to be determined by the Returning Officer seven days after the closing of nominations [Rules 4 and 9 of Schedule 4]; and
 - 3.4 The closing of ballots, if and as required, 28 days after the opening of the ballots [Rules 4, 9 and 18 of Schedule 4].
4. Subsequent to the declaration of the election, Convention Delegates assume office on 1 July 2022 [Rule 78(a)(i)].
 5. The Convention delegates constitute the college from whom delegates may nominate and seek to be elected to the offices referred to above in the second and third election [Rule 74(b)].
 6. Rule 40(c) requires that the Convention meet in the year of the Quadrennial election at a time determined by the National Executive (**Quadrennial Convention**). A meeting of the National Executive held on 1 July 2021 resolved as follows:

National Executive determine that, in order for quadrennial elections to occur in 2022, the Quadrennial Convention Meeting be held on and from 25 July 2022.
 7. Prior to the Quadrennial Convention the following steps are required to occur as part of the conduct of the second and third elections:
 - 7.1 The opening of nominations – being 21 days prior to the commencement of the Quadrennial Convention [Rule 74(c)]; and
 - 7.2 The closing of nominations – being 14 days prior to the commencement of the Quadrennial Convention [Rule 74(d)].
 8. Thus, nominations for the second and third elections would open on or about 4 July 2022 and close on or about 11 July 2022.

Grounds for the Applications

The following grounds are advanced in each of the above elections.

1. Prior to the filing of the PI, officers of the UWU met with staff of the Australian Electoral Commission (AEC) to discuss the conduct of the election and the present and possible challenges the COVID-19 pandemic may present as to the conduct of each election.

2. The UWU Rules require that the second and third election be conducted during the Quadrennial Convention, although the ballot if required may be conducted electronically [Rules 69(e), (f) and (g)].
3. Should restrictions related to managing the COVID-19 pandemic continue or be reimposed in 2022, the UWU predicts three possible scenarios as to the holding of the Quadrennial Convention and therefore the second and third elections:
 - 3.1 That the Quadrennial Convention is postponed;
 - 3.2 That the Quadrennial Convention occurs by virtual means; or
 - 3.3 That the Quadrennial Convention occurs through a combination of the physical attendance of some delegates and the virtual attendance of other delegates.
4. The AEC have indicated that are unable to conduct the second and third election by virtual means.
5. Given the possibility of COVID-19 impacting on the manner in which the Quadrennial Convention occurs and the need for the elections to occur the UWU Executive determined to make this application.
6. The UWU has no appetite to postpone the Quadrennial Convention. To do so would frustrate the activities and pursuit of the objects of the UWU. Additionally, a postponement of the Quadrennial Convention would result in a financial loss to the UWU.
7. Whilst it is open to the UWU to assess the situation closer to the relevant dates and then, if necessary, make this application, such a delay would result in ongoing uncertainty as to the election and more significantly result in the possibility of the AEC being unable to conduct the election in compliance with the timeframes set out in the UWU Rules, should public health restrictions worsen, be reimposed or varied.
8. Thus, there is a real need for an alternate returning officer, with electronic voting capabilities, to be determined for the second and third elections.

Requirements of the RO Act

1. The National Executive is the committee of management of the UWU [Rule 36(a)].
2. The National Executive at its meeting held on 20 October 2021 received a report on the conduct of the Quadrennial elections and resolved amongst other things as follows [s183(2) – RO Act]:

That the National Executive note the report and resolve to authorise Paul Richardson, Director – Finance, Governance and Administration, to file an exemption with ROC from the requirement to utilise the AEC as the Returning Officer in the collegiate quadrennial election scheduled for 2022.

An extract of the minutes of the abovementioned meeting is attached within the declaration accompanying this application.

3. Members of the UWU will or have been advised of the resolution by the following means:

- 3.1 Reference to the resolution will be included in the Union's e-newsletter to be circulated to members on or about 25 November 2021.

- 3.2 A copy of the resolution was posted in the UWU website on 22 November 2021 – [**www.unitedworkers.org.au/notices/**](http://www.unitedworkers.org.au/notices/)

4. Attached to this application is a declaration in accordance with section 183(3) of the RO Act.
5. Should the application be granted the UWU undertakes to comply with any directions or actions required under s183(4) of the RO Act.
6. The rules of the UWU comply with the requirements of the RO Act. Should the Application be approved the UWU undertakes that the election will be conducted under its rules and in the manner required at s186(b)(ii) of the RO Act.
7. Further and without diminishing obligations and responsibilities that are elsewhere required, the UWU will also ensure that compliance with sections 190, 194 and 195 of the RO Act occurs
8. The UWU and its antecedent employee organisations have no history of election irregularities or failure to abide by directions of the AEC in the conduct of elections.

The Returning Officer

1. Should the application be granted that UWU intends engaging Anna Booth (**Booth**) to act as returning officer.
2. Booth is presently a Director of CoSolve² and possesses the following skills and experiences:
 - 2.1 An accredited mediator under the National Mediator Accreditation System and an experienced facilitator and arbitrator.
 - 2.2 Former Deputy President of the Fair Work Commission (**Commission**). During this time, she practised in all the application types that come to the Commission. She also established the Commission's pioneering *Cooperative Workplaces* program (formerly *New Approaches* program) and was its National Practice Leader.

² www.cosolve.com.au

2.3 Prior to her appointment to the Commission, Booth combined her role in CoSolve with non-executive directorships of industry superannuation owned financial services companies, ME Bank and IFM. She was also the non-executive chair of the law firm Slater & Gordon Ltd.

2.4 Previously, Booth was the National Secretary of the then Clothing Trades Union which in turn became the Textile Clothing and Footwear Union from 1987 to 1995.

2.5 Booth also held other offices including Vice-President of the Australian Council of Trade Unions, member of the boards of Commonwealth Bank of Australia, the Centre for Policy Development, the NRMA, and the Sydney Organising Committee for the Olympic Games.

3. The engagement of Booth is conditional upon the approval sought.

4. The engagement of Booth is the result of an enquire conducted by the UWU to satisfy the UWU that Booth is capable of conducting the election in a manner that accords with the Rules of the UWU and the requirements of the RO Act.

5. Booth has confirmed a preparedness and willingness to be engaged to act as the returning officer by the UWU.

6. The engagement of Booth to conduct the election:

6.1 Ensures that the nomination process, validation of nominations, the ballot or ballots, if and as required, and the declaration of the elections will be overseen, conducted and directed by a party who is not a member, officer or employee of the UWU, nor could be perceived as so being.

6.2 Is undertaken in a manner that will accord with the Rules of the UWU and the relevant provisions of the RO Act.

6.3 Ensures that the elections are transparent, democratic and efficient.

6.4 Recognises the expertise and independence of the returning officer in conducting the elections.

7. The UWU will meet the costs and incidental items associated with the engagement of the returning officer.

Other Grounds – Conduct of Hearing

1. Any other grounds the UWU may advance during the course of the ROC hearing the application as required under Regulation 136(1) should the UWU wish to be heard.

2. Any grounds the UWU may advance in reply to any objections to the application.

A handwritten signature in black ink, appearing to read 'Paul Richardson', with a long horizontal flourish extending to the right.

PAUL RICHARDSON
DIRECTOR – FINANCE, GOVERNANCE AND ADMINISTRATION
UNITED WORKERS' UNION

Dated: 22nd November 2021

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DECLARATION OF PAUL RICHARDSON

I, Paul Richardson of 833 Bourke Street, Docklands, Victoria 3008 declare as follows:

1. I am the Director – Finance, Governance and Administration of the United Workers' Union (UWU).
2. I am a member of the National Executive of the UWU, and I am authorised to act in this matter.
3. I verify the facts set out in the Application accompanying this declaration as true and correct in every particular.
4. Attached and marked with the letter A is an extract of the minutes of the meeting of the National Executive which met on 20 October 2021, and which is referred to in the Application. The meeting was quorate.



PAUL RICHARDSON
DIRECTOR – FINANCE, GOVERNANCE AND ADMINISTRATION
UNITED WORKERS' UNION

Dated: 22nd November 2021



NATIONAL EXECUTIVE

Minutes of the National Executive

Wednesday 20th October 2021

Held via Zoom

1. Welcome

National President Jo Schofield welcomed everyone present and acknowledged the traditional owners of the land.

2. Attendance, Apologies and Observers

National President Jo Schofield reported that there were no apologies, but Vice President Carolyn Smith and Executive Member Jannette Armstrong would be attending the meeting late.

Moved: Lyndal Ryan

Seconded: Sam Roberts

That the following constitute the 20th of October 2021 meeting of the National Executive:

National President Jo Schofield

National Vice President Carolyn Smith

National Vice President Sam Roberts

National Secretary Tim Kennedy

Executive Member Ben Redford

Executive Member Caterina Cinanni

Executive Member Dario Mujkic

Executive Member Karma Lord

Executive Member Paul Richardson

Executive Member Sharron Caddie

Executive Member Helen Gibbons

Executive Member Godfrey Moase

Executive Member Demi Pnevmatikos

Executive Member Lyndal Ryan

Executive Member Mel Gatfield

Executive Member Jannette Armstrong

6.2 Quadrennial Elections and Convention

Executive Member Paul Richardson referred to matters in the Report particularly noting the recommendations to take to Member Council in November, regarding composition of the National Executive and team nominations.

He also updated the Executive on the Union conducting its own collegiate elections and who would run this given that the AEC have ruled themselves out if there was any risk to staff due to COVID restrictions or public health orders. He reported that research was currently underway on other third-party organisations that undertake this service, and the Union would need to apply to ROC to gain an exemption from using the AEC for this purpose.

Executive Member Paul Richardson then updated the Executive on current Convention delegate numbers and electorates.

Moved: Paul Richardson

Seconded: Caterina Cinanni

- 1. That the National Executive note the report and resolve to authorise Paul Richardson, Director – Finance, Governance and Administration, to file an exemption with ROC from the requirement to utilise the AEC as the Returning Officer in the collegiate quadrennial election scheduled for 2022.***

Carried Unanimously