

ATTACHMENT B – APPLICATION FOR CONSENT TO THE ALTERATION OF

THE ELIGIBILITY RULES OF AN ORGANISATION

UNITED WORKERS UNION

FAIR WORK COMMISSION

Fair Work (Registered Organisations) Act 2009

Fair Work (Registered Organisations) Regulations 2009

Regulation 121

NOTICE OF PARTICULARS OF RULE ALTERATION

DECLARATION

I, Timothy John Kennedy of 833 Bourke Street, Docklands, in the State of Victoria, Union Official do solemnly and sincerely declare:

1. I am the National Secretary of the United Workers Union (UWU) and I am authorised to make this declaration.
2. I make this declaration in support of the amended Application for consent to the alteration of the eligibility rules of an organisation (Amended Application) and as required at paragraph 1.3 of Form F68.
3. Rule 86 of Section 10 of the Rules of the UWU:
 - a. Provides that the Rules may be altered by the Member Council; and
 - b. Sets out the process by which alterations to the Rules may occur.
4. At a meeting of the Member Council held on 13 July 2021, the Council resolved to alter the Union's eligibility rules to provide that workers employed in hospitals within the Australian Capital Territory that are presently operated by private operators can still be eligible to be members of the UWU if their employment reverts to the public sector.
5. This alteration of the UWU's Rules was outlined in the Application dated 28 July 2020 (Application) submitted to the Commission, and my Declaration attached thereto as Attachment B.
6. On or about 8 August 2023, all members of the Member Council were advised that the UWU sought to amend its previously agreed to rule alteration in this matter.
7. All members of the Member Council were notified by way of email for an Out of Session Ballot sent on my behalf by Bev Myers, Deputy Director, Organisational Strategy, Risk & Compliance.

8. The Rules of the UWW provide for governing bodies to determine matters out of session where the National Secretary considers that a matter should be dealt with expeditiously [Rule 43(b)]. The Member Council is a governing body. [Rule 43(a)].
9. I authorised the Out of Session Ballot on the basis that the Member Council was not scheduled to meet for some time, and in the interests of concluding this matter.
10. Rule 86 (a) (iii) provides that rule alterations may be made by Out of Session Ballots, and further provides that the time limit in which such a ballot must be reviewed is to be not less than 14 days.
11. Out of session decisions may be made by post, email, text, other electronic means, or a combination of each. [Rule 43(d)].
12. The Out of Session Ballot was conducted by email, with a voting period of 8 August 2023 to Monday August 28, 17:00pm AEST, being 20 days.
13. The Out of Session Ballot email contained a report outlining the background and the proposed rule alteration, a copy of the rules to be altered, a link to a full copy of the UWW Rules, and a draft Memorandum of Agreement related to the matter. The Out of Session Ballot materials are attached to this Declaration and marked B-1.
14. The Out of Session Ballot sought that the Member Council alter the UWW Rules by:

1. *inserting a new Rule, at Part 26 of Part A of Schedule 1, (B) as follows:*

The Union shall also consist of employees principally employed or usually employed in the occupations or callings of:

- *cleaning; and/or*
- *security officers and/or*
- *catering and/or the preparation and service of food and drink;*

within the following Hospitals located in the Australian Capital Territory, who are directly employed or engaged by the Government of the Australian Capital Territory:

- *Calvary Hospital;*
- *University of Canberra Hospital; and*
- *The Canberra Hospital*

and only where those employees are employed by the Government of the Australian Capital Territory in the circumstances prescribed in the Memorandum of Agreement between the United Workers' Union and the Health Services Union in D2021/8 (Exhibit X)

2. Providing for the current paragraph at Part 26 of Part A of Schedule 1 to be numbered as (A).

15. As the time of the Out of Session Ballot:

- a. the number of Member Councillors of the Member Council as provided for within Rule 31(a)(i) was 50; and
- b. the number of officers comprising the National Executive as provided for within Rules 31(a)(ii) and 35 was 15.

16. The quorum required for an Out of Session Ballot of Member Council is 50% of the Member Council casting a ballot plus one. A majority of those voting must support the determination for it to pass [Rules 43(e)(ii) and (iii)].

17. A total of 42 votes were received in respect of the determination by the nominated closing time for votes. All votes received were in favour of the determination. Accordingly, the Member Council validly approved the alteration of the UWU Rules. The Record of Decision, tabled at the Union's September National Executive meeting, is attached to this Declaration, and marked B-2.

18. Based on the foregoing, I declare that the alteration has been made in accordance with the Rules of the organisation. [Regulations 121(2)(c)(i) and (ii)]

19. A copy of the Rules that are proposed to be altered appear as Attachment A to the Amended Application. [Regulation 121(2)(e)]

20. I further declare that the alteration:

- a. complies with, and is not contrary to the *Fair Work (Registered Organisations) Act 2009* (the RO Act), the *Fair Work Act 2009*, any modern award and any enterprise agreement [s159(1)(a) of the RO Act];
- b. is not otherwise contrary to law; [s159(1)(a)(ii) of the RO Act]; and
- c. has been made under and in accordance with the Rules [s159(1)(a)(iii) of the RO Act and Regulation 126(2)(a).]

21. In accordance with Regulation 126(2)(c) I also declare that the particulars set out in this declaration are true and correct to the best of my knowledge and belief.

DECLARED at Docklands, Victoria on this 4th day of December 2023.

A handwritten signature in dark ink, appearing to read 'T. Kennedy', with a stylized flourish at the end.

TIMOTHY JOHN KENNEDY

NATIONAL SECRETARY

UNITED WORKERS UNION