006N: Incorporates alterations of 12 December 2024 [R2024/167]

(replaces rulebook dated 12 March 2024 [R2023/128])

**Shop, Distributive and Allied Employees Association**

I CERTIFY under section 161 of the *Fair Work (Registered Organisations) Act 2009* that the pages herein numbered 1 to 35 both inclusive contain a true and correct copy of the registered rules of the Shop, Distributive and Allied Employees Association

DELEGATE OF THE GENERAL MANAGER

FAIR WORK COMMISSION

Rules of the Shop, Distributive and Allied Employees Association

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## 1 - NAME

The Association formed under these rules and hereafter referred to as "the Association" shall be known by the title of Shop, Distributive and Allied Employees Association.

## 1A – DEFINITIONS

In these rules, unless otherwise specified or unless the contrary intention applies, “**the Act**”,means the Fair Work (Registered Organisations) Act 2009, as amended from time to time, and includes regulations made under that Act.

## 2 - OFFICES OF THE ASSOCIATION

(a) The registered office of the Association shall be at such place as National Council or National Executive shall decide.

(b) The National Industrial Office of the Association shall be at such place as National Council or National Executive shall decide.

(c) National Council or National Executive may give directions for the proper administration and staffing of the registered office and national industrial office and such directions shall be complied with by all officers officials members and employees of the Association.

## 3 - CONSTITUTION

**PART 1**

The Association shall consist of an unlimited number of members engaged in any capacity in or in connection with selling, receiving, handling, demonstrating and/or delivery of goods in or for any shop or warehouse, including retail grocers' carters; also employees in any dispensary, and/or employees engaged in the reception, sale, demonstration or delivery of goods other than in or for any shop or warehouse; and employees engaged in or in connection with the making, preparation, handling, putting up, reception, sale, demonstration and/or delivery of drugs, chemicals, pharmaceutical goods, cosmetics, perfumes, toilet preparations, medicinal or household chemicals, and of employees engaged as operators, retouchers, printers, and members of any branch of the photographic profession or trade not eligible for membership in any other Association or Union; and persons engaged in any capacity in or in connection with hairdressing, wigmaking, hairworking, beauty therapy (which shall mean any person engaged in or liable to be engaged in the work of facial and body therapy and shall include such things as dietetics, facial massage, body massage, deportment and exercise, all facets of makeup, manicure and pedicure, treatment of superfluous hair through waxing, bleaching, epilation and electrolysis, cellulite treatment, muscle toning, the use of electrical apparatus for high frequency treatments, desincrustation and ionisation), the work normally carried out by beauticians (which shall mean the work of facial treatment, scalp treatment and massage in connection with the foregoing; the practice of makeup including general and photographic makeup but excluding persons eligible to be members of the Australian Theatrical and Amusement Employees' Association, corrective makeup, eyebrow shaping and eyebrow and eyelash tinting, eye makeup in all forms, manicure and pedicure, removal of superfluous hair through waxing and ear piercing) and all other forms of beauty culture and beauty therapy industry work (including those persons performing or who may perform manicures, pedicures, chiropody, podiatry, cosmetology, trichology, massage and stimulative treatments with or without electrical apparatus and any other beauty treatments) together with such other persons who were officers of The Australian Hairdressers, Wigmakers and Hairworkers Employees' Federation (the Federation) and/or of its Branches and such other persons as had been appointed Industrial Officers of the Federation or of a Branch thereof and such other persons who had been appointed life members of the Federation prior to its deregistration and persons employed as Mannequins or Models, Fashion Comperes and Fashion Demonstrators excluding such persons coming within the Constitution Rule of Actors and Announcers Equity Association of Australia, together with such other persons whether so employed or not as had been elected officers of the Mannequins and Models Guild and admitted members thereof prior to its deregistration; and in the State of South Australia, employees engaged in any capacity in canteens, cafes (except where alcohol is sold), motels, roadhouses and boarding houses.

**PART 2**

Without in any way limiting and without in any way being limited by the conditions of eligibility for membership elsewhere in this rule, the Association shall also consist of:

(a) all persons employed in all work in or in connection with the preparation and sale of meals, snacks and/or beverages which are sold to the public primarily to take away:

(i) where such work is carried out in shops or stores where this work is incidental to the primary role of the sale of consumer goods; and/or

(ii) in food service establishments which primarily provide a take away service where no alcohol is sold.

(b) all persons employed and/or to be employed in food services establishments trading as "Pizza Hut".

(c) all directly employed persons engaged in retail stores in cleaning, store greeting, security, lift attending, store cafeterias and food services involving the preparation and sale of meals, snacks and/or beverages which are sold to the public primarily to take away and employees engaged in the photoprocessing sections of such stores

(d) all persons employed in photographic and camera stores.

(e) all persons employed in the preparation and/or sale of take away food and/or beverages in food courts in shopping centres.

Provided that notwithstanding anything in these rules to the contrary persons not otherwise eligible for membership shall not in consequence of the foregoing be eligible to join the Association who are:

(f) all persons employed in all work in or in connection with the preparation and sale of meals, snacks and/or beverages which are sold to the public to be eaten on the premises or taken away except for work in those establishments described in (a), (b), (c) and (e) above.

(g) all persons employed in all work in or in connection with the preparation and sale of food and/or beverages where such persons are employed by race courses, sporting venues, clubs, entertainment venues, exhibition centres, convention centres and like establishments.

(h) all persons engaged in privately run retail stores which are located on the following higher education campuses, namely:

In Western Australia:

Murdoch University,

Edith Cowan University,

University of Western Australia,

Curtin University of Technology.

In New South Wales:

University of New England,

University of New South Wales,

University of Newcastle,

Charles Sturt University,

University of Wollongong,

Southern Cross University.

In Victoria:

University of Melbourne,

La Trobe University,

Victorian College of Agriculture and Horticulture Limited,

Ballarat University College,

Deakin University,

Swinburne University of Technology,

La Trobe University College of Northern Victoria,

Victoria University of Technology,

Royal Melbourne Institute of Technology,

Victorian College of Pharmacy,

Hawthorn Institute of Education Limited,

Victorian College of the Arts,

Monash University.

In Tasmania:

University of Tasmania.

In Northern Territory:

Northern Territory University.

In South Australia:

University of Adelaide,

Flinders University of South Australia,

University of South Australia.

In Queensland:

University of Queensland,

Griffith University,

James Cook University of Northern Queensland,

Queensland University of Technology,

University of Central Queensland,

University of Southern Queensland.

In Australian Capital Territory:

Australian National University,

University of Canberra.

(i) all persons employed in stand alone photo processing establishments known as photographic mini-labs.

(j) all persons employed in shopping centres where such persons are employed by centre managements to carry out catering, cleaning, security, parking, lift attending, gardening, greeting and other like work.

(k) all persons employed by contract companies where found in the retail industry in the areas of catering, cleaning and security.

(l) all persons employed by contract catering companies who work in or in connection with the preparation and sale of meals, snacks, and/or beverages which are primarily sold to the public to be eaten on the premises or taken away.

Provided further that nothing in Part 2 of this Rule shall make eligible for membership employees employed in the State of Queensland outside the South Eastern Division of Queensland [being the area within the following boundaries in the State of Queensland: commencing at Point Danger and bounded thence by the southern boundary of the state westerly to 151 degrees of east longitude; thence by that meridian of longitude bearing true north to 24 degrees 30 minutes of south latitude thence by that parallel of latitude bearing true east to the sea coast; and thence by the sea coast southerly to the point of commencement; and all islands comprised in any state or federal electorate in the South Eastern Division of Queensland].

**PART 2A**

For the purposes of section 158A of the Fair Work (Registered Organisations) Act 2009 and the applicable Fair Work (Registered Organisations) Regulations the eligibility rules of the Association shall make eligible for membership:

1. In the **State of New South Wales** (other than in the County of Northumberland, Parish of Stockton, Shire of Port Stephens, Shire of Dungog):

**Part A**

Employees employed in or in connection with the handling, reception, sale or delivery of fruit and vegetables at the City Municipal Markets or wholesale fruit and vegetable distributing centres in the State of New South Wales including such wholesale fruit and/or vegetable markets as shall from time to time be established in the State aforesaid, employees engaged in or in connection with the making preparing handling, putting up, reception sale and delivery of gut preparations, surgical, medical and hygenic dressings, cotton-tipped applicators, cotton balls, non-woven fabric household and industrial wiping cloths or non-woven fabric food service cloths, employees engaged in installation (other than such installation as requires trade skills) servicing, stocking, collection of money from and preparation of commodities for sale in vending machines and the like and members of any branch of the advertising profession and/or trade employed in any capacity by the industries covered by this constitution including consultants and employees providing services free or otherwise directly or indirectly in the promotion of sale by retail.

**Part B**

Without in any way limiting Part A or being limited by Part A:

The Union shall consist of an unlimited number of persons registered as Pharmacists under the Pharmacy Act 1964 or its successors, or studying for a degree in any recognised Institute of Education for the purpose of registration as a Pharmacist or working as a consultant in any capacity including Managers, Pharmacists in charge, Registered Pharmacist Assistants, or any other person employed in the dispensary of any Retail Pharmacy as a Dispensary Assistant and including all pharmacists, university pharmacy students and pharmacy graduates employed in a retail pharmacy.

2. In the **State of New South Wales** in the County of Northumberland, Parish of Stockton, Shire of Port Stephens, Shire of Dungog and the Municipality of Muswellbrook:

Employees engaged in or in connection with the making, preparing, handling, putting up, reception, sale and delivery of gut preparations, surgical, medical and hygenic dressings, pharmaceutical goods, cosmetics, perfumes, toilet preparations, cotton tipped applicators, cotton balls, non-woven fabric household and industrial wiping cloths or non-woven fabric food service cloths, medicinal or household chemicals,

and including persons employed as salespersons in connection with the sale of land and/or buildings of any kind, salespersons employed by business agents or sub-agents in the sale of business of any kind, salespersons employed by auctioneers, salespersons employed by stock and station agents,

and employees engaged in the installation (other than installations requiring trade skills) servicing, stocking, collection of money from and preparation of commodities for sales in vending machines,

and members of any branch of the Advertising profession and/or trade employed in any capacity by the industries covered by this constitution and including consultants, and employees providing services free or otherwise directly or indirectly in the promotion of sale by retail.

3. In the South Eastern Division of **Queensland** as described and defined in the final paragraph of Part 2 of Rule 3. **Constitution** and including all islands comprised in any state or federal electorate in the South Eastern Division of Queensland:

Employees following the occupation of Shop Assistant, and shall include all persons engaged in the reception, sale or delivery by hand of any goods for sale by retail and/or for hire, wherever employed, and shall include all Managers, Manageresses, Salesmen, Saleswomen, Floor Walkers, Floor Superintendents, Floor Supervisors, Cash Order and/or Time Payment Collectors, Travellers, Wireless Salesmen and Saleswomen, Electrical Goods and/or Appliances Salesmen and Saleswomen, Hearing Aid Appliances Salesmen and Saleswomen, Carter Salesmen and Saleswomen, Produce Salesmen and Saleswomen, Window Dressers, Ticket Writers, Order Collectors, Mail Order Assistants, Storemen, Packers, Porters, Linoleum and Carpet Layers and/or cutters, Rubber Mat and Rubber Floor Covering Layers and/or Cutters, and all other floor covering Layers and/or Cutters, Demonstrators, Footwear Repair Receivers, Dry Cleaning Receivers in retail stores, Message Boys and/or Girls, all persons employed or engaged in selling, demonstrating or canvassing for or taking orders for goods for sale by retail and/or for hire, or in any duties in any way incidental thereto, Females engaged as Dusters in Furniture, Crockery, or Hardware Shops, all employees in or connected with the pattern department in any shop or shops, Automobile and/or Farm Implement Spare Parts and/or accessories Salesmen and Saleswomen, all employees in or connected with canteens, Storemen in Retail Bulk Stores, and all Employees in Florist Shops.

4. In the **State of South Australia**

Clerks engaged in any capacity in or for any shop or warehouse including retail grocers’ carters; and

employees engaged in or in connection with the making, preparation, handling, putting up, reception, sale, demonstration and/or delivery of galenicals.

**PART 3**

The Association shall also consist of such other persons as have been appointed officers of the Association and admitted as members thereof and such persons who have been appointed life members. Any member leaving the industry to work in another shall cease to be a member of the Association but may if he or she so desires remain an honorary member and shall not be eligible to hold office.

Life members may be exempt from paying contributions and levies.

## 3A - INDUSTRY

**PART 1**

The industry in or in connection with which the Association is formed is, without in any way limiting the generality of the provisions of Rule 3. CONSTITUTION and the construction proper at any time or times to be placed thereon, the industry of Reception, Sale or Delivery of Merchandise and the industry of the Food Services Industry (but only so far as provided for in Part 2) and the industry concerned with hairdressing, wigmaking, hairworking, beauty therapy (which shall mean any person engaged in or liable to be engaged in the work of facial and body therapy and shall include such things as dietetics, facial massage, body massage, deportment and exercise, all facets of makeup, manicure and pedicure, treatment of superfluous hair through waxing, bleaching, epilation and electrolysis, cellulite treatment, muscle toning, the use of electrical apparatus for high frequency treatments, desincrustation and ionisation), the work normally carried out by beauticians (which shall mean the work of facial treatment, scalp treatment and massage in connection with the foregoing; the practice of makeup including general and photographic makeup, corrective makeup, eyebrow shaping and eyebrow and eyelash tinting, eye makeup in all forms, manicure and pedicure, removal of superfluous hair through waxing and ear percing) and all other forms of beauty culture and beauty therapy industry work (including those persons performing or who may perform manicures, pedicures, chiropody, podiatry, cosmetology, trichology, massage and stimulative treatments with or without electrical apparatus and any other beauty treatments), and the industry of the employment of Mannequins and Models, Fashion Comperes and Fashion Demonstrators and in the State of South Australia, the industry of canteens, cafes (except where alcohol is sold), motels, roadhouses and boarding houses.

**PART 2**

Without in any way limiting or without in any way being limited by the descriptions of industries and/or industrial pursuits elsewhere in this rule the description of industries and/or industrial pursuits in or in connection with which the Association is registered shall also include the following industries and/or industrial pursuits, namely:

(a) the preparation and sale of meals, snacks and/or beverages which are sold to the public primarily to take away:

(i) where such work is carried out in shops or stores where this work is incidental to the primary role of the sale of consumer goods; and/or

(ii) infood service establishments which primarily provide a take away service where no alcohol is sold.

(b) food services establishments trading as "Pizza Hut".

(c) cleaning, store greeting, security, lift attending, store cafeterias and food services involving the preparation and sale of meals, snacks and/or beverages sold to the public primarily to take away and photoprocessing where such activities occur in retail stores.

(d) photographic and camera stores.

(e) the preparation and/or sale of take away food and/or beverages in food courts in shopping centres.

Provided that notwithstanding anything in these rules to the contrary persons not otherwise eligible for membership shall not in consequence of the foregoing be eligible to join the Association who are:

(f) persons employed in all work in or in connection with the preparation and sale of meals, snacks and/or beverages which are sold to the public to be eaten on the premises or taken away except for work in those establishments described in (a), (b), (c) and (e) above.

(g) persons employed in all work in or in connection with the preparation and sale of food and/or beverages where such persons are employed by racecourses, sporting venues, clubs, entertainment venues, exhibition centres, convention centres and like establishments.

(h) persons engaged in privately run retail stores located in the following higher education campuses:

In Western Australia:

Murdoch University,

Edith Cowan University,

University of Western Australia,

Curtin University of Technology.

In New South Wales:

University of New England,

University of New South Wales,

University of Newcastle,

Charles Sturt University,

University of Wollongong,

Southern Cross University.

In Victoria:

University of Melbourne,

La Trobe University,

Victorian College of Agriculture and Horticulture Limited,

Ballarat University College,

Deakin University,

Swinburne University of Technology,

La Trobe University College of Northern Victoria,

Victoria University of Technology,

Royal Melbourne Institute of Technology,

Victorian College of Pharmacy,

Hawthorn Institute of Education Limited,

Victorian College of the Arts,

Monash University.

In Tasmania:

University of Tasmania.

In Northern Territory:

Northern Territory University.

In South Australia:

University of Adelaide,

Flinders University of South Australia,

University of South Australia.

In Queensland:

University of Queensland,

Griffith University,

James Cook University of Northern Queensland,

Queensland University of Technology,

University of Central Queensland,

University of Southern Queensland.

In Australian Capital Territory:

Australian National University,

University of Canberra.

(i) persons employed in stand alone photo processing establishments known as photographic mini labs.

(j) persons employed in shopping centres where such persons are employed by centre managements to carry out catering, cleaning, security, parking, lift attending, gardening, greeting and other like work.

(k) persons employed by contract companies where found in the retail industry in the areas of catering, cleaning and security.

(l) persons employed by contract catering companies who work in or in connection with the preparation and sale of meals, snacks and/or beverages which are primarily sold to the public to be eaten on the premises or taken away.

Provided further that nothing in Part 2 of this Rule shall make eligible for membership employees employed in the State of Queensland outside the South Eastern Division of Queensland [being the area within the following boundaries in the State of Queensland: commencing at Point Danger and bounded thence by the southern boundary of the state westerly to 151 degrees of east longitude; thence by that meridian of longitude bearing true north to 24 degrees 30 minutes of south latitude thence by that parallel of latitude bearing true east to the sea coast; and thence by the sea coast southerly to the point of commencement; and all islands comprised in any state or federal electorate in the South Eastern Division of Queensland].

## 4 - OBJECTS

The objects of the Association shall be to promote, improve and safeguard the interests of its members industrially, morally, socially, legally, intellectually and otherwise by all lawful means deemed necessary by the National Council.

Without limiting the foregoing the Association may:-

(a) Establish a fund for mutual assistance and/or for the general conduct of the Association by means of affiliation fees, fines, levies and/or such other means as may be determined from time to time by the National Council.

(b) Affiliate with, combine with, work with, or act conjointly with any Industrial Unions, organisation or Political Party whether with the Commonwealth of Australia or elsewhere for the purpose of carrying out all or any of the objects of the Association and to assist financially any such Union, Organisation or Party if considered advisable by the National Council.

(c) Register as an Industrial Organisation and to exercise all or any of the powers conferred upon an Industrial Organisation consequent upon such registration.

(d) Establish and maintain a Journal, Magazine, Paper for the purpose of disseminating news and information.

(e) Establish and maintain separate funds if deemed necessary by the National Council for the assistance generally of any of its members and/or employees provided that any fund so established shall only be expended for the purpose for which it was established.

(f) Oppose any body of persons incorporated or unincorporated which in the opinion of the National Council by its constitution, aims, objectives, conduct, propaganda or otherwise advocates, assists or encourages the overthrow by force or violence of the established government of the Commonwealth of Australia or of a State or of any civilised country or of organised government.

(g) Uphold the authority of constitutional government and the Constitution of the Commonwealth of Australia and the States and to oppose the growth of doctrines and/or groups or organisations of persons incorporated or unincorporated which in the opinion of the National Council advocate, assist, or encourage the overthrow by force or violence of the established government of the Commonwealth of Australia or of a State or of any civilised country or of organised government.

(h) Make disbursements in furtherance of any of the above objects which disbursements shall be deemed to be part of the ordinary expenses of the Association.

(i) Purchase, take on lease and hold any real or personal property, and to sell mortgage lease or otherwise deal with or dispose of the same.

(j) Provide legal advice and representation or the means of obtaining it or other professional services or sustenance to any member or members or section or other category of members or to any present or past officer, official or employee of the Association or their legal representatives or dependants.

## 4A - CONDITIONS FOR LOANS GRANTS AND DONATIONS BY ASSOCIATION

Notwithstanding any other provision of these rules, a loan grant or donation of an amount exceeding $1,000 shall not be made by the Association or by any Branch of the Association unless the Committee of Management of the Association or of the Branch, as the case may be -

(i) has satisfied itself -

(A) that the making of the loan, grant or donation would be in accordance with the other rules of the Association or of the Branch, as the case may be; and

(B) in relation to a loan - that in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory; and

(ii) has approved the making of the loan, grant or donation.

## 5 - MEMBERSHIP

(a) All persons covered by the Constitution shall be eligible for membership of the Association.

(b) Applicants for membership shall be informed, in writing, of:

(i) the financial obligations arising from membership; and

(ii) the circumstances, and the manner, in which a member may resign from the Association.

(c) Any person desirous of becoming a member of the Association shall do so through the Branch covering the area in which he or she works. Membership of a Branch shall automatically ensure membership of the Association.

## 6 - GENERAL FUND

A general fund shall be established to be used for the general purposes of the Association.

Except as otherwise provided by these rules all Affiliation Fees, Fines, Levies and other incoming monies shall be paid into the General Fund, from which shall be drawn all amounts necessary to defray salaries, expenses, commissions honorariums, fees, allowances, fares, board and lodgings, and such other disbursements as are decided on.

The National Council and/or National Executive only shall have power to disburse funds.

The funds of the Association shall be expended only in carrying out the objects of the Association as set out in Rule 4 and in the necessary expenses of the Association.

That in addition to the foregoing and to remove any doubt that might otherwise exist the following provisions shall have effect notwithstanding any rule to the contrary.

(a) Where a Branch has wilfully neglected or otherwise omitted to provide for the levying and collection of subscriptions fees or penalties from members of the organisation in the area of that Branch, National Council or National Executive may by resolution establish a bank account in the area of that Branch and may give directions or authorise a National Officer to give directions for the operation of such account and for the receipt by it of amounts to be calculated by reference to the amount of subscriptions fees or penalties otherwise properly payable to the Branch and the disbursement of such amounts when received from the account.

(b) To the extent of the amount of any advances made by the Association for the establishment of such account, the cost of its management and operation, the cost of taking or defending legal proceedings associated with its establishment or operation and the cost of providing interim services to those making payments to the account which the Branch may be unable to provide for its members, the account shall be and be deemed to be part of the General Fund of the Association and shall be operated by National Executive and such signatories as National Council or National Executive may from time to time direct.

(c) The remainder of the account when ascertained shall form part of the Branch Fund of the Branch in whose area it is established.

## 6A - INTERNATIONAL FUND

In addition to the general fund established under Rule 6 there shall be established with effect from 1 January 1982 a fund to be known as the International Fund to which the following provisions shall apply:-

(a) (1) Branches shall in addition to the payment of affiliation fees and any levy provided for in Rule 32 pay to the Association on or before the 31st day of March annually commencing in 2014 an amount to be credited to the International Fund of not less than 1.5% of gross Branch membership contributions received and receivable by the Branch, by any counterpart State-registered Trade Union or by any Deductions Account operated for the benefit of the Branch during the period of twelve months ending 30 June in the year preceding the year in which affiliation fees are next payable.

For accounting purposes the payment by Branches to be credited to the International Fund as to be made on or before 31 March annually shall be taken to relate to the period starting on 1 January immediately preceding 31 March in that year and concluding on 31 December immediately following 31 March in that year.

(2) For the purpose of this sub-rule "gross Branch membership contributions received and receivable" shall mean an amount calculated by reference to and equal to all membership contributions:

(i) paid or payable by members and persons eligible for membership in the Association and by employers making deductions on their behalf net of the employer's agreed administrative costs for effecting such deductions;

(ii) to a Branch of the Association or to a State-registered counterpart Trade Union of such Branch or to an approved Deduction Account operated for such Branch;

(iii) shown in the audited accounts as received in the period of twelve months ending 30 June in each year.

(b) For the purposes of Chapter 8 Part 3 Accounts and Audit of section 242 of the Act the International Fund shall be part of the Federal Fund of the Association and shall be operated by authority of the resolution of the National Council or National Executive of the Association as required from time to time and shall be applied to the payment of affiliation fees, subsidies, air fares, travelling expenses of delegates and the like whereby the objects of the Association with regard to affiliating with, combining with, working with or acting conjointly with organisations external to the Commonwealth of Australia may be furthered and advanced for the benefit of the members of the Association;

(c) Any Branch which fails to comply with this Rule shall be deemed to be unfinancial and shall not be entitled to take part in any of the proceedings of National Council and/or National Executive until such time as the Branch shall have complied with this Rule.

## 7 - NATIONAL COUNCIL

(a) The affairs of the Association shall be managed by a National Council.

(b) The National Council shall meet annually and at such other time as National Council may deem necessary.

The annual meeting shall take place during the month of October at such place as National Council shall decide, provided that by resolution National Council or the National Executive may alter the date and venue of the meeting but in no case shall the altered time exceed two (2) months.

(c) The National Executive and/or the National President and the National Secretary-Treasurer shall have power to convene special meetings of National Council, and decide when and where such meeting(s) shall take place. At least fourteen (14) days notice of any such meeting(s) shall be given to each member of National Council.

(d) Upon a request in writing from at least two (2) branches for the calling of a special meeting of National Council, the National Secretary-Treasurer shall forthwith ascertain the views of all Branches and if a majority of the Branches are in favour of such special National Council meeting, the National Secretary-Treasurer shall make the necessary arrangement to call such special meeting of National Council within two (2) months of the date of receipt of the written request above-mentioned. At least fourteen (14) clear days notice of any such meeting shall be given to each member of National Council.

(e) At meetings of the National Council the quorum necessary for the transaction of the business of the meeting shall be one more than one half of those entitled to attend and vote thereat.

## 7A – VIRTUAL MEETINGS OF NATIONAL COUNCIL

(1) Notwithstanding any other Rule to the contrary, this Rule 7A shall empower the Association to hold virtual meetings of National Council in any year in which the members of National Council or significant numbers of them are impeded from meeting in person in that role by reason of health regulations of the Commonwealth or a State or States or the closure of boundaries of a State or States as part of a medical or like emergency;

(2) Circumstances to permit the operation of this Rule shall be deemed to exist when the National President and National Secretary-Treasurer jointly advise the Association in writing that in their opinion such circumstances exist, giving their reasons for that opinion, and such advice is notified to all members of National Council;

(3) A virtual meeting of National Council held under this Rule shall follow as closely as possible the provisions of the National Rules regulating ordinary meetings of the National Council and matters ancillary thereto and shall permit each member of National Council to participate in its proceedings by technology that allows as far as reasonably practicable for each participating member to clearly and simultaneously communicate with each other participating member during the virtual meeting of National Council in which he or she participates;

(4) Any member who participates in the proceedings of a meeting of National Council conducted in accordance with this Rule:

(a) shall be taken to be present at the meeting; and

(b) if the member votes at the meeting shall be taken to have voted in person;

(5) At the time set for the commencement of the National Council meeting under this Rule, the National President or if unavailable the National Vice-President shall take the Chair and shall give directions for the conduct of the meeting. In the absence of both of these officers, members seeking to participate shall vote one of their number to act as their Chairperson;

(6) A quorum for a meeting of National Council held under this Rule shall be one more than one half of those entitled to attend and vote thereat ;

(7) In all matters in relation to a virtual meeting on which this Rule or the National Rules are silent, the National President shall act in conjunction with the National Secretary-Treasurer or if unavailable, National Vice President or if unavailable, National Assistant Secretary to give directions for the efficient conduct of the virtual meeting or to clarify the operation of this Rule.

## 8 - CONSTITUTION OF NATIONAL COUNCIL

(a) The National Council shall consist of the National President, National Vice-President, National Secretary-Treasurer, National Assistant Secretary, and delegates of affiliated Branches as follows:-

|  |  |
| --- | --- |
| Branches having 2,000 or less members: | 1 Councillor |
| Branches having 2,001 to 5,500 members: | 2 Councillors |
| Branches having 5,501 to 15,500 members: | 3 Councillors |
| Branches having 15,501 to 25,500 members: | 5 Councillors |
| Branches having 25,501 to 35,500 members: | 6 Councillors |
| Branches having 35,501 to 45,500 members: | 7 Councillors |
| Branches having 45,501 to 55,500 members: | 8 Councillors |
| Branches having 55,501 or more members: | 9 Councillors |

(aa) The number of members of a Branch for the purpose of determining the number of delegates to the National Council which the members of that Branch are entitled to elect under Rule 8(a) shall be taken to be the number of members of that Branch ascertained as at 31 December in the year immediately preceding the year in which an ordinary election of members of the National Council is next due to be held.

(b) Branches shall elect their own delegates and shall include in their Rules provisions for such election including a provision to be included in the rules of each Branch by 1st January 1979 that such delegates be elected at an election at which all financial members of such Branch are, subject to reasonable provisions with respect to enrolment, eligible to vote.

If any delegate is unable to attend National Council the Branch he or she represents may arrange a proxy either from its own Branch or from the State or area in which National Council is to meet.

(c) A delegate to National Council, having been elected by a Branch shall (unless elected as National Secretary-Treasurer or National Assistant Secretary when filled as a full-time office) remain a delegate to National Council until his or her successor is elected, and shall be deemed to be a delegate of the Branch at all meetings of the National Council held during his or her tenure of office as a delegate.

(d) In the event of any extraordinary vacancy, including a vacancy under Rule 13(b)(i), on the National Council the following provisions shall apply:

(i) if the unexpired part of the term of the office of National Councillor exceeds twelve months or three quarters of the term of the office (whichever is the greater) the members of the Branch which the outgoing delegate represented shall elect another delegate to fill such a vacancy;

(ii) in any other case, the members of the Branch Council of the Branch which the outgoing delegate represented may appoint a member of the Branch Council or Branch Conference to fill the vacancy.

(e) Delegates to the National Council meetings shall be provided with proper credentials duly certified by the President and Secretary of the Branch they represent, such credentials shall be forwarded to the National Secretary-Treasurer at least thirty (30) days prior to the annual meeting of the National Council except in the case of a proxy delegate appointed under Rule 8 (b) above, in which case the National Council shall be satisfied that he was duly appointed.

## 9 - POWERS AND DUTIES OF NATIONAL COUNCIL

The National Council shall be the governing body of the Association and shall have power to:-

(a) Lay down the policy of the Association.

(b) Help and guide the affiliated Branches to carry out the policy of the Association and/or all or any of the objects of the Association.

(c) Make, amend or rescind the rules of the Association.

(d) Fix affiliation fees, strike levies on the Branches and recover same in any court of competent jurisdiction.

(e) Disburse monies from the General Fund or any Special Fund of the Association in accordance with these rules.

(f) Appoint a Returning Officer not being the holder of any other office in and not being an employee of the Association or of a branch section or division of the Association for the conduct of elections for positions in the Association.

(g) Fix salaries, expenses, commissions, honorariums, allowances, fares, board and lodgings.

(h) Appoint all or any delegate necessary to represent the Association on any body.

(i) Make, vary or cancel any industrial agreement and/or submit any dispute or industrial matter to the Fair Work Commission or to any other Court or Tribunal available to it subject to the Fair Work Act 2009 or the Fair Work (Registered Organisations) Act 2009 as the context may require or any amendment of that Act and to enter into agreements in the prescribed form with State registered unions in accordance with section 151 of the Fair Work (Registered Organisations) Act 2009.

(j) Request any Branch through its State Council or Committee of Management or any particular Officer of any Branch to act on its behalf and to delegate so much of its powers to such body or person as is necessary to so act.

(k) Determine any question and/or dispute and/or reference arising in or submitted to it by any Branch.

(l) Establish and maintain a Superannuation, Long Service Leave, Mortality, Auxiliary, and/or any other fund deemed necessary by National Council for all or any of its employees and/or members.

(m) Hold in trust for the Association all property, money, books, papers, and/or any other goods of the Association and in so doing, may buy, sell, invest or otherwise transact any negotiations for the safe-keeping, maintaining and improvements of any such property, money, books, papers and/or other goods provided always that any money invested must be in Government secured loans or interest-bearing deposits with the Association's Bankers or any investment for the time being authorised by the Laws of the State of Victoria or of any other State in the Commonwealth of Australia for the investment of trust funds.

(n) Authorise and direct an officer of the Association to enrol persons eligible for membership employed within a State or area where rules for a Branch exist but the Branch has no officers or where such rules do not make adequate provision for the enrolment of members and all such persons employed within such State or area as have applied for membership in the Association or agreed to become members of the Association and abide by its rules shall upon being so enrolled be and be deemed to be members of the Branch for such State or area provided that this power shall not be exercised in any case where rules for a Branch exist, the Branch has officers and the rules make adequate provision for the enrolment of members.

(o) Authorise and direct an officer of the Association to appoint persons employed within a State or area where rules for a Branch exist but the Branch has no officers or where such rules do not make adequate provision for the appointment of officers to exercise the powers of any office provided for in the rules of the Branch pending the holding of an election for such office provided that the person so appointed shall hold office for a period of three months only or until his or her successor is elected whichever first occurs.

(p) Purchase take on lease and hold any real or personal property and to sell mortgage lease or otherwise deal with or dispose of the same.

(q) Provide legal advice and representation or the means of obtaining it or other professional services or sustenance to any member or members or section or other category of members or to any present or past officer, official or employee of the Association or their legal representatives or dependants.

(r) Generally do all such things as may seem to National Council necessary or convenient to achieve the Objects of the Association.

## 10 - NATIONAL COUNCIL MEETINGS

On the assembling of the National Council the National President or National Vice-President shall take the Chair. In the absence of both of these officers members assembled shall vote one of their number to act as their Chairman.

The National Secretary-Treasurer shall then read the delegates credentials and proxy appointments and on the acceptance of same the Council shall unless otherwise determined proceed to business in the following order:

(i) Close of Nominations for Positions of National Executive, and/or National President, National Vice President, National Secretary-Treasurer, National Assistant Secretary.

(ii) Roll Call.

(iii) Hours of Sitting of National Council.

(iv) Minutes of last National Council Meeting. Minutes of Special National Council Meetings (if any). Minutes of National Executive Meetings and or Committees thereof.

(v) Appointment of a Returning Officer.

(vi) Correspondence.

(vii) Submission of Balance Sheet, Statement of Receipts, and Payments, and Auditor's Report.

(viii) National Secretary-Treasurer's Report.

(ix) Accounts.

(x) Branch Reports.

(xi) Rules (new amendments, rescissions).

(xii) Agenda Items.

(xiii) General Business.

(xiv) Declaration of Ballot or statement by the Returning Officer.

(xv) Date and venue of next National Council.

(a) Credentials of the delegates of the Branches shall be forwarded to the National Secretary-Treasurer at least thirty (30)days prior to the annual meeting of the National Council subject to Rule 8 (e).

(b) Rules: If the National Executive or any Branch desires that any rule of the Association be amended or rescinded or desires a new rule to be inserted it shall notify the National Secretary-Treasurer at least thirty (30) days prior to the annual meeting and shall forward to the National Secretary-Treasurer a copy of the proposed new rule, amendment or rescission.

If National Council in Session finds it necessary to amend or rescind any of the rules of the Association or make a new rule, it may debate such amendment, rescission or new rule provided that a two-thirds majority of the assembled delegates are in favour of the debate notwithstanding any other rule to the contrary.

(c) Agenda Items: The National Executive may place any business on the Agenda of the National Council meeting that the majority may decide.

Branches shall notify the National Secretary-Treasurer of all business they desire to place on the agenda for National Council and/or National Executive meetings.

All items for Agenda of National Council and/or National Executive meetings shall be in writing and forwarded to the National Secretary-Treasurer at least thirty (30) days prior to such meetings.

A copy of all items, including rules, shall be forwarded by the Secretary-Treasurer to each Branch at least fourteen (14) days prior to Council meeting.

(d) Any member of the National Council desiring to place business, not on the Agenda, before National Council meeting must obtain the consent of the majority of members present.

(e) Any decision of National Council on any matters, or any amendment or rescission of any rule or any new rule that did not appear on the Agenda shall be subject to ratification by a Postal Ballot of all Branches if any two (2) or more Branches so demand.

Such demand shall be forwarded to the National Secretary- Treasurer within sixty (60) days of the rising of the National Council meeting and shall be accompanied by a copy of the resolution passed at the meeting of the Branch held to consider the decision of the National Council, authorising such person sending the demand to so do.

The National Secretary-Treasurer on receipt of such demand shall immediately hold a Postal Ballot of all Branches for the ratification or otherwise of the National Council decision.

(f) Within thirty (30) days of the rising of the National Council meeting the National Secretary-Treasurer shall forward to each member of National Council and to each Branch a copy of the Minutes of such meeting.

## 11 - NATIONAL EXECUTIVE

(a) Between meetings of the National Council the affairs of the Association shall be managed by a National Executive which shall be the committee of management of the Association.

(b) The National Executive shall meet at least three times each calendar year at a date time and place to be determined by National Council or National Executive.

(c) Special meetings of the National Executive shall be convened whenever:

(i) Two or more branches request in writing sent by them by email or personal delivery to the National President and National Secretary-Treasurer that a special meeting of National Executive be convened to deal with the business set out in the request; or

(ii) The National President and National Secretary agree that a special meeting of National Executive be convened to deal with the business set out in the notice convening the special meeting of National Executive the terms of which have been agreed upon between them; or

(iii) The National President and National Secretary-Treasurer are of opinion that grounds exist to proceed forthwith to convene a special meeting of National Executive.

(d) All meetings of National Executive shall be convened by notice sent either by the National Secretary-

Treasurer or by the National President by email or personal delivery addressed to each member of the National Executive at his or her last known address as appearing in the records of the Association. Each such notice shall state the date time place and business of each such meeting and shall be so sent or delivered as to be received by each member of National Executive not less than seven (7) days prior to the date of such meeting, provided that 48 hours shall be deemed sufficient compliance with the requirements of this subrule as to notice unless not less than two members of National Executive give notice that not less than seven (7) days’ notice is required. Provided further that at a meeting at which all members of the National Executive are present, it shall be competent for those present to vote unanimously to waive notice of the meeting whereupon the meeting can proceed to deal with the business brought under notice under this subrule.

(e) The quorum necessary for the transaction of the business of a meeting of National Executive shall be not less than four (4).

(f) A meeting of National Executive may be conducted in meeting assembled or as a virtual meeting or by a combination of these two modes and shall permit each member of National Executive to participate in its proceedings either in person or by technology that allows as far as reasonably possible for each participating member to clearly and simultaneously communicate with each other participating member during the meeting of National Executive in which he or she participates. For the avoidance of doubt, a virtual meeting includes a meeting at which some of the members of National Executive are present in person and some members participate by virtual means.

## 12 - CONSTITUTION OF NATIONAL EXECUTIVE

(a) The National Executive shall consist of the National President, National Vice-President, National Secretary-Treasurer, National Assistant Secretary and at least five (5) other members elected by and from the National Council. If after any such election or at any other time a Branch is not represented on National Executive by the National President or the National Vice-President or by a member of National Executive (not an Officer) elected by and from the National Council, the members of that Branch shall at once proceed to elect one of the delegates of that Branch to National Council to be a member of National Executive.

(aa) If by reason of the death resignation or removal from office of a member of National Executive or for any other cause a Branch is not represented on National Executive by the National President or the National Vice-President or by a member of National Executive (not an Officer) elected by and from the National Council the members of the National Council shall elect from the delegates of that Branch to National Council a member of the National Executive who shall hold office for the unexpired term of the member of National Executive whom he or she is elected to replace.

(b) Each member of the National Executive, other than the National Secretary-Treasurer and the National Assistant Secretary shall hold office until such time as his or her successor is elected.

## 13 - POWERS AND DUTIES OF NATIONAL EXECUTIVE

(a) The National Executive shall be the Committee of Management of the Association and between meetings of National Council shall subject to the review of its actions by National Council have the powers of National Council except the power to make alter or rescind the rules of the Association.

(b) The National Executive shall, subject to the review of its actions by the National Council, have the care control custody superintendence management and administration in all respects of the affairs, business, funds and property of the Association and without limiting the generality of the foregoing it may:

(i) Dismiss or suspend from office the National President, National Vice-President, National Secretary-Treasurer, National Assistant Secretary, member of National Executive or member of National Council: provided that no person shall be dismissed from office as National President, National Vice-President, National Secretary-Treasurer, National Assistant Secretary, member of National Executive or member of National Council unless he or she has been found guilty in accordance with rule 13A of misappropriation of the funds of the Association, a substantial breach of the rules of the Association or gross misbehaviour or gross neglect of duty or has ceased, according to the rules of the organisation to be eligible to hold the office.

(ii) Appoint any officer or member to fill any vacancy created under paragraph (i) hereof or to perform the duties of the dismissed or suspended office-holder pending the filling of such vacancy in accordance with the rules or the lifting of the suspension.

(iii) Fine and/or suspend and/or expel any member in accordance with rule 13A.

(iv) Initiate control and manage any action, proceeding, claim, industrial dispute or other matter in which the Association has an interest (including the authorisation of the affixing of the Association Seal to or the signing of any document or class of document) appoint agents solicitors or counsel to appear for and represent the Association or any of its members in any arbitral or legal proceedings trade practices enquiry prices justification enquiry parliamentary or other public enquiry or before any other person tribunal or commission whatever and to vary or revoke such appointment at any time.

(v) Submit any question to a ballot of the members of the Association or, when requested by a Branch, of the members of that Branch.

(vi) Enter into any industrial agreement or contract on behalf of the Association or, when requested by a Branch, of that Branch.

(vii) Grant such assistance to any member or Branch as it may consider necessary.

(viii) Expend or authorise the expenditure of any monies in furtherance of the objects of the Association.

(ix) Determine what offices or positions in the Association (not being offices or positions in a branch) shall be paid offices or positions and determine any questions concerning the remuneration to be attached thereto or the variation thereof.

(x) Require any officer office-holder or member of the Association to furnish information to National Executive in person or in writing as National Executive may direct on any matter involving questions whether the rules of the Association or of any Branch have been bona fide performed or observed whether the statutory duties of any office-holder or of the Association or of any Branch have been performed in accordance with the requirements of the Act whether any situation not elsewhere specified in this rule exists which would be a ground for the deregistration of the Association or whether any lawful direction of National Council or National Executive is not being performed observed or enforced.

(xi) Direct or do all other things reasonably incidental to any of the above.

The powers conferred by this rule on National Executive to be construed liberally and so as to facilitate and not restrict the free exercise by National Executive of all the powers necessary or convenient for the performance of its functions as the Committee of Management of the Association.

(xii) Subject to these rules all lawful acts and decisions of National Executive shall have full force and effect and have full validity and shall be complied with by all members of the Association until such acts or decisions are reversed or altered or otherwise dealt with by the National Council:

Provided that should three members of the National Executive direct by written notice to the National President and National Secretary-Treasurer within ten (10) days of a decision that such decision be submitted to the decision of the National Council, no action shall be pursued in respect of that matter or question until the decision of National Council has been obtained.

## 13A - DISCIPLINE OF MEMBERS

(a) Any member of the Association may charge any other member with:

(i) Contravening or failing to observe any rule of the Association

(ii) Contravening or failing to observe any lawful resolution or direction of National Council or National Executive of which resolution or direction he or she has had notice

(iii) Advocating or supporting disobedience by members to the rules or lawful decisions of the Association or of any Branch

(iv) Misappropriation of any of the funds of the Association

(v) Conduct exposing the Association to liability for any penalty under any law or award

(vi) Knowingly giving misleading information relating to Association business or matters to National Council, National Executive or any officer, office-holder, returning officer or auditor of the Association

(vii) Unreasonably refusing to give information relating to Association business or matters to National Council, National Executive or any officer, office-holder, returning officer or auditor of the Association who has requested such information or who is otherwise entitled under the Rules to receive such information

(viii) Failing to observe the requirements of any order or award binding on the Association

(ix) Wrongfully holding himself or herself out as occupying any office or position in the Association or a Branch or as being entitled to represent the Association or a Branch in any capacity; provided that it shall be a defence that the person charged believed bona fide and on reasonable grounds that he or she was entitled so to act; and/or

(x) Committing any fraudulent or unlawful act in relation to any funds or property of the Association or a Branch or any election held under the rules of the Association or a Branch.

(b) Any member charged under these Rules shall be given sufficient notice in order to answer the charge. A summons specifying the charge posted by prepaid registered post to the last known address of the person charged as appearing from the records of the Association at least seven (7) days prior to the date fixed by the National President for the meeting of National Executive at which the charge is to be heard shall be deemed sufficient notice of any such charge but the person charged may be given notice of the charge by such additional or alternative means as may be reasonable having regard to all the circumstances.

(c) A charge may be made orally or in writing and shall be made to the National President or in his or her absence to the National Vice- President. Such Officer may if he or she thinks fit and shall if so directed by National Council or National Executive summon the member charged to attend before National Executive to answer to the charge. Such summons shall be in writing and shall state the date time and place of the hearing, the name of the person laying the charge and the substance of the charge.

(d) The National Executive shall have power to hear and determine charges under this rule.

(e) At the appointed time and place (or any time and place to which the meeting is adjourned or postponed and of which the person charged is notified) the charge may be investigated whether or not the person charged is present unless a satisfactory explanation of his or her absence has been received.

(f) If the person charged attends he or she shall be informed of the substance and source of any information adverse to him or her on which the tribunal relies. He or she shall be given a reasonable opportunity to defend himself or herself and may, if he or she wishes, tender written submissions.

(g) If the tribunal finds him or her guilty it may do one or more of the following:-

1. Impose no penalty;

2. Fine him or her any sum not exceeding $20.00;

3. Suspend him or her from membership or deprive him or her of any right or benefit of membership for any specifed period or until the happening of any specified event or until the performance of any specified act.

Suspension from membership shall deprive a member of benefits of membership but shall not relieve him or her of the obligations of membership and shall not exceed six (6) months for any one offence.

If the specified event has not occurred or the specified act has not been done at the expiration of six (6) months from the date of suspension, the suspension shall then lapse.

4. Dismiss him or her from any office or position provided that no person elected to an office within the Association shall be dismissed from that office unless he or she has been found guilty in accordance with these rules of misappropriation of the funds of the Association, a substantial breach of the rules of the Association, or gross misbehavior or gross neglect of duty or has ceased, according to the rules of the Association, to be eligible to hold the office.

5. Expel him or her from the Association.

(h) If upon investigation the charge is found to be frivolous, the National Executive dealing with the matter may order the person who made the charge to forfeit a sum being not more than Ten Dollars ($10.00) by way of fine which shall be paid into the funds of the Association.

(i) An appeal shall lie at the instance of the member charged from the National Executive to the National Council. Notice of appeal shall be given in writing within two (2) weeks of any decision being communicated to him or her and shall set forth in full all matters that the appellant desires to be considered. The appeal may be dealt with in meeting or by postal vote. The notice of appeal shall be given to the National President in the case of an appeal to the National Council.

(j) It shall be the duty of a member found guilty who claims that any tribunal (except the National Council) which dealt with him or her or purported to deal with him or her acted in bad faith or was constituted or in any way acted otherwise than in accordance with the Rules, to appeal as provided in this Rule.

(k) For the guidance of National Executive and National Council and without it being in any way mandatory, the following is suggested as a way in which an investigation (not an appeal) may be carried out, namely:

(a) Inform the member charged that a charge has been laid against him or her under Rule 13A of the Rules by a member (naming the member) and that a rule book is available for him or her if he or she requires it. Read the charge.

(b) Ask whether member charged pleads guilty or not guilty.

(c) Ask person laying charge to state case.

(d) Give member charged and then members of tribunal opportunity to question person laying charge.

(e) Ask person making charge to call witnesses, if any, or other evidence.

(f) Hear evidence of witnesses.

(g) Give member charged and then members of tribunal opportunity to question each witness.

(h) Ask member charged to answer case.

(i) Give person laying charge and then members of tribunal opportunity to question member charged.

(j) Ask member charged for witnesses, if any, or other evidence.

(k) Hear evidence of each witness.

(l) Give opportunity to person laying charge and then members of tribunal to question witnesses.

(m) Give person laying charge and then member charged opportunity to address members of the tribunal on the whole case.

(n) Ask member charged and person laying charge to withdraw while the matter is discussed by the members of the tribunal. Inform them, if possible, how long it is expected before the decision will be given, e.g. telling them either to wait or that the decision will be notified in writing.

(o) Discuss evidence and decide whether guilty or not. If guilty, decide on penalty, if any.

## 14 - OFFICERS

For the purposes of this rule the term officer shall mean only those persons holding the following positions: National President, National Vice- President, National Secretary-Treasurer and National Assistant Secretary. Such officers shall be elected by and from the National Council and, if a delegate, upon election to a position which has been filled as a full-time office or to the office of National President shall cease to be a delegate from any Branch whilst holding their respective positions. At the expiration of their term of office they shall be eligible for re-election.

No person shall hold at any one time more than one of the four positions referred to in this Rule.

## 14A - CASUAL VACANCY IN POSITION OF NATIONAL OFFICER

(a) A casual vacancy in the office of any of the National President, National Vice-President, National Secretary-Treasurer, or National Assistant-Secretary shall, subject to sub-rule (b) and (c) of this Rule, be filled by an ordinary election conducted so far as practicable in accordance with Rules 15 and 15A of these Rules.

(b) Where the unexpired term of the office to be filled does not exceed 12 months or three-quarters of the term of the office, whichever is the greater, National Council may resolve not to fill the office by ordinary election but by appointment of the National Executive under sub-rule (c) of this Rule.

(c) Where a resolution of National Council is adopted in accordance with sub-rule (b) of this Rule National Executive may appoint a member of National Council to the office to be filled and upon such appointment taking effect, the person filling the vacancy shall be taken, for the purposes of the Rules of the Association, to have been elected to the office under the relevant Rules of the Association and the person so elected shall hold office for the unexpired term of the office to be filled or until a successor is duly elected and shall be eligible for re-election.

## 15 - ELECTION OF OFFICERS AND EXECUTIVE MEMBERS

(a) Nominations for the positions of National President, National Vice- President and five (5) National Executive Members shall be called for by notification of all members of National Council by the Returning Officer at least fourteen (14) days prior to the ordinary meeting of the National Council in every second year.

Nominations shall close at the opening of the said meeting of the National Council. Should more than the required number of nominations be received for any position a secret postal ballot of all members of National Council shall be conducted by the Returning Officer without delay in accordance with the requirements of the Act.

The ballot shall close upon the return of all ballot papers but in no case shall it close later than fourteen (14) days after the ballot papers have been distributed.

(b) Prior to the ordinary meeting of National Council in every fourth year nominations for the positions of National Secretary-Treasurer and National Assistant Secretary shall be called for at the same time, and in the same manner as the nominations referred to in paragraph (a) hereof and the ballot for these positions shall proceed in the same manner and at the same time as for the positions of National President, National Vice-President and the five (5) National Executive Members.

(c) A person shall not be eligible to be a candidate for any position in the Association if there is reasonable ground for believing that:-

(1) Within twelve months prior to the date of his or her nomination he or she was a member of any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilised country or of organised government; or

(2) He himself or she herself advocates or encourages, or has within twelve months prior to the date of his or her nomination advocated or encouraged the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilised country or of organised government.

(d) A person shall not be eligible to hold or continue to hold any position in the Association if there is reasonable ground for believing that:-

(1) He or she is a member of any body of persons, incorporated or unincorporated, which by its constitution or propaganda or otherwise advocates or encourages the overthrow by force or violence of the established government of the Commonwealth or of a State or of any civilised country or of any organised government; or

(2) He himself or she herself advocates or encourages, or has within twelve months prior to the date of his or her election advocated or encouraged, the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilised country or of organised government.

(e) Every candidate for any position in the Association shall sign and lodge with his or her nomination a declaration that he or she is not ineligible under the provisions of Rule 15 (c) and (d).

(f) Notwithstanding the provisions of any other rule the preceding Rules 15 (c) and 15 (d) shall only be amended or rescinded if two-thirds of the members assembled at a meeting of the National Council vote in favour of such amendment or rescission.

## 15A - CONDUCT OF ELECTIONS

The conduct of the election shall be in the hands of the Returning Officer and shall be conducted by secret postal ballot which shall comply in all respects with the Act and the regulations made thereunder and any amendments of same. Subject thereto the following provisions shall apply:-

(1) The Returning Officer shall call for nominations by notice to each member of the National Council, and in such notice shall specify an address at which such nomination will be received by him.

(2) Any member of National Council may nominate or be nominated as a candidate for election by submission in writing to the Returning Officer such nomination shall be accompanied by declaration in accordance with Rule 15 (e).

The nomination of any Delegate nominated by some other person shall bear the name of the nominator and the nominee's consent. If the Returning Officer conducting such election finds a nomination to be defective he or she shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give him or her the opportunity of remedying the defect.

(3) Forthwith after a ballot for any position in the Association becomes necessary the Returning Officer shall prepare, personally initial and forward, in such a manner as to ensure so far as it is practical that each person entitled to participate in any such ballot received a ballot paper, a ballot paper clearly setting out the position(s) being balloted for together with the candidates' names in alphabetical order for each position. The method of voting shall also be clearly indicated.

(4) The Returning Officer shall arrange for a post office box for the reception of all ballot papers. As soon as practical after the closing of the Poll such post office box shall be opened by the Returning Officer in the presence of such scrutineers whom are present and proceed to count the poll. He or she shall declare the Ballot and notify the National President and National Secretary-Treasurer in writing of the result. All returned ballot papers shall remain in the custody of the Returning Officer.

(5) The result of the poll shall be ascertained by scrutiny and in each case the candidate receiving the highest number of votes shall be declared elected.

(6) In the event of an equality of votes between candidates for any position the candidate to be elected shall be determined by lot provided always that a retiring candidate must be defeated.

(7) Each candidate shall be entitled to appoint a Scrutineer whose name shall be advised in writing the Returning Officer by the candidate. He or she shall have the right in the presence of the Returning Officer to inspect any work being done in connection with the ballot at any stage thereof. He or she shall conduct himself so as not to interfere with the functions of the ballot and shall immediately notify the Returning Officer of any irregularity which he or she may observe.

(8) Successful candidates shall assume office on the declaration of the Poll and subject to the rules shall hold office till their successors are elected, and shall be eligible for re-election.

(9) The Returning Officer shall so conduct himself or herself as to ensure, so far as is practicable, and to the best of his ability and foresight that no irregularity occurs in or in connection with the election. He or she shall observe the secrecy of the ballot and shall not attempt to influence any voter for or against any candidate.

(10) No error or omission in the carrying out or observance of any Rule shall invalidate an election if the error or omission is not of such a nature that the result of the election has been or may have been affected.

## 16 - DUTIES AND RIGHTS OF NATIONAL PRESIDENT

1. The duties of the National President shall be :-

(a) To preside at all meetings of the National Council and the National Executive and preserve order thereat.

(b) Upon the Minutes being confirmed he or she shall sign the Minute Book in the presence of the meeting.

(c) He or she shall enforce the rules and by-laws of the Association.

(d) In conjunction with the National Secretary-Treasurer he or she shall call meetings in conformity with these rules, and sign all orders for payment of accounts and otherwise.

(e) He or she shall conduct the meetings of the National Council and National Executive according to standing orders.

(f) In all matters of emergency he or she shall act in conjunction with the National Secretary-Treasurer or National Vice-President or National Assistant Secretary to safeguard the interests of the Association.

(g) He or she shall sign all cheques together with the National Secretary- Treasurer.

2. The rights of the National President shall include :-

(a) The payment to him or her of such honorarium as National Council shall decide.

(b) He or she shall be an ex-officio member of all committees of the Association.

(c) He or she shall have a deliberative vote only.

## 17 - DUTIES OF NATIONAL VICE PRESIDENT

The duties of the National Vice President shall be to preside over the meetings of National Council and National Executive and perform the duties of the National President in his or her absence and to assist in preserving order at all meetings. In the absence of the National President he or she shall exercise full power as National President. Should the National President desire to leave the chair during any meeting of the National Council or the National Executive he or she shall occupy it with full authority as National President.

## 18 - DUTIES AND RIGHTS OF NATIONAL SECRETARY-TREASURER

1. The duties of the National Secretary-Treasurer shall be to :-

(a) Attend all meetings of National Council, National Executive and Committees thereof.

(b) Prepare and place before the Chairman an abstract of the business for consideration at such meetings.

(c) Keep or cause to be kept a true record of the proceedings of and resolutions of all meetings of National Council, National Executive and/or Committees thereof including any disclosure of interest made or tabled at such meeting pursuant to sections 293C or 293D of the Act and if confirmed see to the entry of such record in the relevant Minute Book for submission to the National President for signature under Rule 16 and for presentation to the next meeting of such body.

(d) Attend to and keep a copy of all correspondence and present same to the next meeting.

(e) Receive all monies due to the Association and furnish receipts for same and within forty-eight (48) hours deposit any such monies in the Commonwealth Bank of Australia to the credit of the Association in an account in the name of the Association including a Cash Management Call Account or like account.

(f) Pay accounts of the Association. No account shall be paid until certified as correct by the National Secretary-Treasurer and on no account shall he or she pay away the funds of the Association unless authorised in writing or by cheque signed by the National President and National Secretary-Treasurer. In the event of the National President or National Secretary-Treasurer being absent through sickness or otherwise the National Vice President shall give such authority in writing or sign the cheque in place of either the National President or National Secretary-Treasurer. Management reports accurately summarising the financial activities of the Association supported when requested by National Council or National Executive by details of the accounts shall be submitted by the National Secretary Treasurer to the next meeting of the National Council or National Executive. He or she may pay other monies as directed by National Council or National Executive.

(g) Keep proper books of account of the Association and cause to be drawn up a balance sheet disclosing the correct records of the funds of the Association together with a statement of receipts and payments and submit same together with all books and vouchers necessary for audit to the Auditor appointed by the Association such balance sheet and Statement of Receipts and Payments together with the Auditor's Report to be presented at National Council Meetings or at such other times as National Council or National Executive may direct.

(h) Where any breach or non-compliance of the awards relating to members of the Association are reported to him or her or otherwise comes under his or she notice or within his knowledge he or she shall take all steps necessary for the proper compliance of such awards; any such action taken by him or her is to be reported to the National Council.

(i) Inform the National President of any information he or she may receive and generally keep the National President informed on all Association matters.

(j) Ensure that a proper register of members is kept.

(k) Carry out any other duties imposed on him or her by these rules and/or requested by National Council and/or National Executive.

(l) Keep an account of Petty Cash as advanced by National Council and/or National Executive from time to time.

(m) Hand over all books and papers belonging to the Association to the National President, National Council or National Executive or such other person as is authorised by National Council or National Executive forthwith of being directed to so do and shall be under a continuing duty to hand over all books and papers belonging to the Association to the person authorised by National Council or National Executive to receive them.

(n) Sign (either in person or by an agent authorised by him or her in writing to do so or by the printing or affixing of a facsimile of his or her signature to a specific class of document pursuant to a written authority in that behalf signed by him or her and specifying the class of document to which the facsimile signature shall be applied) any process or document required by resolution of National Council or National Executive to be signed by him or her as the person duly authorised by the Association and take any action required by resolution of National Council or National Executive on behalf of the Association and he or she is hereby duly authorised and/or granted the necessary authority.

(o) Enter into a Fidelity Bond of $500 the premium of such Bond to be paid by the Association.

(p) Compile and forward to all members of National Council a copy of all items submitted by Branches for the Agenda and/or relating to rules. Such copy to be despatched so as to reach National Council members at least fourteen (14) days prior to National Council assembling.

(q) He or she shall be the Officer to sue and/or be sued on behalf of the Association.

2. The rights of the National Secretary-Treasurer shall include:-

(a) The payment to him or her of such salary or honorarium as the National Council or National Executive shall decide.

## 19 - DUTIES AND RIGHTS OF NATIONAL ASSISTANT SECRETARY

The duties of the National Assistant Secretary shall be to:-

Assist the National Secretary-Treasurer to perform all or any of the duties of the National Secretary-Treasurer.

In the absence of the National Secretary-Treasurer, he or she shall assume the full duties of the National Secretary-Treasurer.

He or she shall perform any other duties as requested by the National Council or National Executive.

The payment to him or her of such salary or honorarium as National Council or National Executive shall decide.

## 20 - AUDITORS

The National Council shall appoint a person qualified to audit the financial affairs of an organisation of employees in accordance with the requirements of the Act, who shall audit the financial affairs of the Association and also furnish a report on all accounts yearly to National Council or National Executive. In the event of an extraordinary vacancy occurring the National Executive shall have power to appoint an Auditor.

## 21 - DELEGATES EXPENSES

(a) The National President, National Vice President, National Secretary- Treasurer and National Assistant Secretary shall be allowed first class fares and an all inclusive allowance (except for fares) as determined by National Executive of National Council from time to time, whilst attending National Council and/or National Executive meetings or performing other Association duties.

(b) Other members of the National Executive shall be allowed first class fares, and the same allowance as the officers whilst attending National Executive meetings.

(c) Allowances set out in (a) and (b) of this rule shall be charged against the funds of the Association.

(d) Expenses of Delegates from Branches attending National Council Meetings shall be the responsibility of the Branch provided that they shall not be less than those as set out above.

(e) Any person requested by National Council or National Executive to perform any duties on behalf of the Association shall be entitled to receive payment in accordance with this rule.

## 22 - SALARIES

Officers and Delegates of the Association shall be paid such salaries, allowances, honorariums and expenses as National Council or National Executive may from time to time deem advisable.

## 23 - CONTRIBUTIONS AND ENTRANCE FEES

(a) Each Branch shall determine the rate of contributions to be paid by members of the Association in that Branch provided that with effect from 1st January 1979, such rate shall be not less than the amount of two dollars ($2.00) per member per annum and shall not be less than the amount or amounts fixed by National Executive

(b) A Branch may additionally determine to charge an entrance fee to be paid by members of the Association in that Branch.

## 24 - FINES AND LEVIES

(a) Levies may be struck by the National Council on the Branches if the funds of the Association are below Ten Thousand Dollars ($10,000) or as to rectify any invalidity or possible invalidity or to negative, modify or cause to be modified the consequence in law of an invalidity or possible invalidity in the fixing of affiliation fees whereby a Branch has in any past year or years paid affiliation fees at a rate below that paid by all other Branches; provided however, that the National Council before imposing any such levy shall first notify all the Branches at least one month in advance of their intention to impose such levy and the reason for such imposition.

Branches may impose levies in accordance with the rules of the Branches.

(b) Branches may make provision in their Rules for fining members of their Branch provided that any fines so imposed shall not exceed Forty Dollars ($40.00).

## 25 - UNFINANCIAL MEMBERS

(a) Any member failing to pay his or her contribution, and/or fines, and/or levies, imposed under the Rules of his or her Branch within the time allowed by those Rules of becoming due, shall be deemed to be unfinancial and shall remain unfinancial until all monies owing by such member have been paid and shall be liable to be sued in any Court of competent jurisdiction for all or any of the amount owing.

(b) All costs ordered by any Court to be paid to the Branch by the member shall, so long as they are unpaid, be deemed to be due by him or her to the Branch and shall be taken into account in determining the amount of his or her indebtedness to the Branch. All costs and expenses incurred by the Branch in or incidental to the collection of contributions, and/or fines, and/or levies from any member shall be recoverable from him or her as dues and shall be deemed to be arrears and shall be taken into account in determining the amount of his or her indebtedness to the Branch.

(c) An unfinancial member shall not be entitled to the benefits and privileges of the Association or to vote on any question at any meeting of the Association or on any ballot taken, nor shall an unfinancial member have any claim whatsoever on any of the funds of the Association whilst such member remains unfinancial provided that a delegate to National Council may attend and vote at meetings of National Council on behalf of the Branch he or she represents if and as long as his Branch is financial.

(d) All members who pay contributions by way of deductions from wages or salary made by their employer pursuant to an arrangement approved by the committee of management of a Branch and not disapproved by the National Council or National Executive or (where the committee of management of a Branch has not considered the arrangement) approved by the National Council or National Executive of the Association shall be deemed to be financial members of the Association for as long as such arrangement is in force with such approval.

## 26 - WAIVER

(a) A Branch as defined in Rule 39 may exempt a member or a class of members from the payment of contributions in circumstances where the members are:

i. unemployed;

ii. stood down;

iii. on parental leave;

iv. on approved leave without pay; or

v. not working and not receiving remuneration due to injury or ill health.

(b) Exemptions granted pursuant to sub-rule 26(a) may be for a period of up to 24 months.

(c) A Branch as defined in Rule 39 may, subject to these Rules and decisions made thereunder, exempt a class of members from the payment of contributions in the following circumstances:

i. unusually low wages are paid to that class of members;

ii. unusually low hours are worked by that class of members;

iii. organising opportunities may be enhanced in respect of that class of members; or

iv. the members are in supported employment.

(d) Exemptions granted pursuant to sub-rule 26(c) shall be reported by the Branch to the National Secretary-Treasurer within thirty (30) days and he/she shall report the exemption to the next meeting of the National Executive.

(e) Any exemption from contributions granted by a Branch pursuant to sub-rule 26(c) will be periodically reviewed by the National Executive and/or National Council and will be subject to any decisions of the National Executive or National Council.

(f) A member granted an exemption pursuant to rule 26 is, subject to these Rules and decisions made thereunder, financial during the period of the exemption.

(g) An exemption granted pursuant to rule 26 may be for part or all of the contributions that would otherwise be payable in the relevant period.

## 27 - RESIGNATION OF MEMBERS AND CLEARANCES

1. (a) A member may resign from membership by written notice addressed to the Branch Secretary of the Branch of which the member resigning is a member and delivered to that officer;

(b) A notice of resignation from membership takes effect:

(i) where the member ceases to be eligible to become a member of the Association;

(A) on the day on which the notice is received by the Branch Secretary of the Association;

(B) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;

whichever is later; or

(ii) in any other case;

(A) at the end of 2 weeks after the notice is received by the Branch Secretary on behalf of the Association;

(B) on the day specified in the notice;

whichever is later;

(c) Any dues payable but not paid by a former member in relation to a period before the member's resignation took effect, may be sued for and recovered in the name of the Association, in a court of competent jurisdiction, as a debt due to the Association;

(d) A notice delivered to the Branch Secretary shall be taken to have been received by the Association when it was delivered;

(e) A notice of resignation that has been received by the Association is not invalid because it was not addressed and delivered in accordance with sub-rule(a);

(f) A resignation from membership is valid even if it is not effected in accordance with this rule if the member is informed in writing by or on behalf of the Association that the resignation has been accepted.

2. Any member who leaves the industry or moves into another Branch may request a clearance from his or her Branch. Upon such request, the Branch shall issue such clearance provided such member has paid all monies owing and is financial on the books of the Branch. Such clearance shall be presented to the Secretary of the Branch into which the member has moved and such member shall not have any rights in that Branch until such clearance has been received by that Branch.

## 28 - CONTROL OF NATIONAL COUNCIL BY MEMBERS

(a) If at any meeting of a Branch of the Association at which there is present at least 2% of financial members of a Branch or 200 financial members of the Branch (whichever is the less) a resolution is passed by a majority of the members in attendance which requires the National Secretary to submit a matter to the National Executive or National Council for review or decision, the National Secretary shall submit such matter to the members of the National Executive or National Council within twenty-one (21) days from receipt of such a request from the Branch Secretary or Branch Secretaries concerned - provided such matter may be submitted to either body by postal vote.

(b) If in any period of six months, meetings of any three Branches at each of which not less than 2% of financial members of the Branch or 200 financial members of the Branch (whichever is the less) are present by resolution request that a referendum of members be held on a proposal that the National Council or the National Executive take or refrain from taking any specified policy in the conduct of the Association business, the National Council shall within twenty-one days appoint a Returning Officer who shall forthwith proceed to conduct a referendum of the members on the proposal. Such referendum shall so far as practicable be conducted in the same manner as the elections of full time officers of the respective Branch provided that if the proposal be adopted by the National Council or National Executive, no referendum shall be held under this Rule.

(ba) A requisition in common form signed by not less than 5% of the financial members of the Association or 5,000 financial members (whichever is the less) shall be given effect to as if the same represented the decisions of meetings of any three Branches made in accordance with the requirements of the preceding sub-rule.

(bb) On receipt of a request in writing from members being in aggregate 5% of the members of the Association for a general meeting of members of the Association to be convened for the purpose of considering the Auditor’s Report, the General Purpose Financial Report and the Operating report, such report shall be presented to a duly convened general meeting of members of the Association within the period of 6 months starting at the end of the financial year or such longer period as is allowed by a Registrar. For the purpose of this sub-rule the general meeting of members may take the form of a series of meetings, to be held in the capital city of each State or Territory in which the Association has a Branch or in the case of the Newcastle and Northern Branch the City of Newcastle.

(c) The result of a referendum shall be given effect to by the National Council or National Executive.

## 29 - REGISTER OF MEMBERS

Branches shall keep a register of the names and addresses so far as they are known, of the members in their respective areas, at the registered office of the Branch.

## 30 - PURGING OF REGISTER

Branches may from time to time purge their respective register of members who have left the industry to work in another or who have died resigned been transferred or who have become and remained unfinancial for any period exceeding six months but this purging shall not exempt any such purged member from the payment of any monies owing by him to the Branch

## 31 - POSTAL BALLOT

(a) Notwithstanding anything in these Rules to the contrary National Council and National Executive may determine any question by postal or electronic mail ballot including facsimile transmission conducted in accordance with this Rule and shall do so whenever the National President, National Secretary-Treasurer, National Council, National Executive or any two (2) Branches so require.

(b) A decision made under this Rule shall have the same effect as a decision of the body whose members participate in the postal or electronic mail ballot including facsimile transmission conducted in accordance with this Rule provided that all members are sent notice of the matter to be decided and not less than one half plus one of those entitled to vote record a vote in the ballot.

(c) The method of taking a ballot shall be by letter, telegram, telex, electronic mail including facsimile transmission or courier message sent on not less than seven (7) days notice to each person entitled to participate at his or her last known address as appearing in the records of the Association.

(d) The National Secretary-Treasurer or failing him or her the National President or failing him or her the National Vice President shall unless otherwise determined by the National Council or National Executive be the proper officer to conduct such ballot.

## 32 - AFFILIATION FEES

(a) (1) Branches shall pay to the Association such affiliation fees for each calendar year as are fixed from time to time by National Council, provided that such fees shall be paid on or before the 31st day of March of that calendar year and shall be not less than 10% of gross Branch membership contributions received and receivable by the Branch, by any counterpart State-registered Trade Union or by any Deductions Account operated for the benefit of the Branch during the period of twelve months ending 30 June in the year preceding the year in which affiliation fees are next payable;

(2) For the purpose of this sub-rule "gross Branch membership contributions received and receivable" shall mean an amount calculated by reference to and equal to all membership contributions:

(i) paid or payable by members and persons eligible for membership in the Association and by employers making deductions on their behalf, net of the employer's agreed administrative costs for effecting such deductions;

(ii) to a Branch of the Association or to a State-registered counterpart Trade Union of such Branch or to an approved Deduction Account operated for such Branch;

(iii) shown in the audited accounts as received in the period of twelve months ending 30 June in each year.

(3) For accounting purposes the affiliation fees paid by Branches on or before 31 March annually shall be taken to relate to the period starting on 1 January immediately preceding 31 March in that year and concluding on 31 December immediately following 31 March in that year.

(b) As well as affiliation, Branches shall pay to the Association any levy that may be made in accordance with these rules and any other monies that National Council has decided should be a charge against a Branch and/or Branches within three (3) months of being notified of such indebtedness.

(c) Branches shall retain all other monies they receive.

(d) Any Branch which fails to comply with this Rule shall be deemed to be unfinancial and shall not be entitled to partake in any of the proceedings of National Council and/or National Executive until such time as the Branch shall have complied with this Rule.

(e) No levy shall be imposed upon Branches for the purpose of affiliation to any organisation.

## 33 - ALTERATION OF RULES

No new rules shall be made, nor shall any of the rules for the time being of the Association be altered and/or amended, and/or rescinded except by and at a meeting of National Council, or by a postal ballot of National Council, which is hereby empowered to make a new rule or rules and alter and/or amend and/or rescind any existing rule or rules at any time. A postal ballot of National Council may be ordered by National Council or National Executive or required by request in writing to the National President and National Secretary-Treasurer in the same or substantially the same terms under the hands of any two (2) Branch Secretaries.

Any such ballot shall be conducted in accordance with these rules.

(a) The National Executive and/or any Branch may propose any new rule or rules and/or formulate proposals for altering and/or amending and/or rescinding any of the existing rules of the Association, provided that any such proposed new rule or rules and/or alteration and/or amendment and/or rescission shall be submitted in writing to the National Secretary-Treasurer at least thirty (30) days prior to any meeting of National Council.

(b) If National Council in sessions finds it necessary to make a new rule or rules and/or alter and/or amend and/or rescind any of the rules of the Association they may do so subject to the second paragraph of Rule 10(b) and Rule 10(e).

## 34 - DISSOLUTION

The Association shall not be dissolved unless so decided by a Ballot of the membership at which not less than 50% of the members record a vote.

## 35 - SEAL

The Association shall have a Common Seal, which the National Secretary- Treasurer shall keep in his or her custody, and such Seal shall be affixed by the National Secretary-Treasurer to any document authorised by National Council or National Executive and/or required by any Law and/or Act.

Where necessary the National Secretary-Treasurer shall sign all documents to which he or she has affixed the Seal.

If necessary the authority of the National Council or National Executive may be obtained by a postal ballot.

Where a specific class of document is to be, or may be, signed by the National Secretary-Treasurer and/or sealed with the Common Seal of the Association and by reason of the number of documents in that class it is not convenient for each document to be signed and/or sealed personally, the National Secretary-Treasurer may authorise in writing the printing or affixing of a facsimile of his or her signature and/or of a facsimile of the Common Seal of the Association to such documents and each document if signed and/or sealed in accordance with such written authority shall be deemed to be duly executed in accordance with these Rules.

## 36 - BRANCHES

(a) Members throughout the Commonwealth of Australia shall be enrolled into the Association through Branches. There shall be one Branch in each State except in the State of New South Wales where in addition to the New South Wales Branch a second Branch, namely the Newcastle and Northern Branch has been formed to include the area of the County of Northumberland, Parish of Stockton, Shire of Port Stephens, Shire of Dungog and the Municipality of Muswellbrook. Additionally members and persons eligible for membership in the Association in the County of Yancowinna in the State of New South Wales shall be taken to be members of the South Australian and Northern Territory Branch and not to be members of the New South Wales Branch from the time of their enrolment in the South Australian and Northern Territory Branch after certification of this provision and to remain members of that Branch until such membership is terminated in accordance with these Rules and the Rules of the South Australian and Northern Territory Branch.

Provided that any two (2) Branches may amalgamate to form one (1) Branch but National Council shall first give authority for such amalgamation.

(b) Branches shall consist of members employed in the Area where Branches are formed.

(c) Members of the Association in the Australian Capital Territory shall be taken to be members of the New South Wales Branch. Members of the Association in the Northern Territory shall be taken to be members of the South Australian and Northern Territory Branch. If no Branch exists in any other Commonwealth Territory those persons eligible shall be enrolled as members of the nearest Branch.

(d) Each Branch shall be called the Shop, Distributive and Allied Employees Association with the name of the Branch following the word "Association" and the word "Branch" following the name of the Branch.

(e) Branches are pledged to support one another financially and/or by other lawful means when requested, if approved by National Council.

(g) If no Branch exists in any State, National Council or National Executive may form a Branch in that State or direct which Branch employees or members in that State shall join.

(h) Branches shall pay to the Association such affiliation fees as may be fixed from time to time by the National Council. Such fees shall be paid on or before the first day of April annually on their financial membership as at the first day of January of each year.

## 37 - POWERS AND DUTIES OF BRANCHES

(a) Each Branch of the Association shall have full autonomy and representation and control of the industrial interests of members of the Association in their respective States or Areas in all matters affecting the members of the Branch only and matters concerning the participation of the Branch in any State industrial conciliation and arbitration system but nothing in this Rule shall be read as limiting the powers of National Council or National Executive to seek, vary or oppose the making of any Federal Award or Federal Agreement.

(b) Each Branch shall have power to elect its own officers.

(c) Each Branch of the Association shall have power to make and/or alter and/or amend and/or rescind rules for the proper conduct of their Branch. Such rules and/or alterations and/or amendments and/or rescissions shall not conflict with the rules of the Association.

(d) Each Branch shall retain for their own maintenance and/or use all monies received from Fees, Fines, Levies, Contributions and/or from any other sources subject to Rule 32 and Rule 6.

(e) Each Branch shall have power to elect their own delegate or delegates to National Council and/or any other Body, Association or Organisation.

(f) Each Branch shall have the right to submit any matter to National Council and/or place any item and/or new rule and/or amendment to and/or rescission of any existing rule on the Agenda of National Council and/or National Executive meetings in accordance with these rules.

(g) Notwithstanding anything hereinbefore to the contrary in Rule 33, Rule 37 shall not be deleted, altered, nor amended in any way except by a resolution carried by at least a two-thirds (2/3) majority of members of National Council entitled to vote

## 38 - STANDING ORDERS FOR CONDUCT OF MEETINGS

(a) On the assembly of the meeting the President or Vice President shall take the Chair. In the absence of both Officials members assembled shall vote one of their number to act as Chairman pro tem.

(b) Any member desiring to propose a motion or an amendment or if discussing any matter under consideration, must rise and address the Chairman and shall not use any provoking or discourteous language. No member when speaking shall be interrupted unless called to order, when he or she shall sit down, the member so calling to order shall be heard in preference to any other speaker, but shall be simply allowed to direct attention to the point complained of, and the Chairman shall then decide without discussion, on the point of order before the subject is resumed or any other subject entered upon.

(c) A motion and an amendment having been duly proposed and seconded no further amendment shall be received until one of the former shall have been disposed of.

(d) Only one amendment upon any motion shall be entertained and decided at a time. If an amendment is carried, it shall be held to have negatived the original motion and stand in its place.

(e) No member shall speak more than once or longer than five minutes at each time on any question without leave of the Chairman, which leave shall be granted or refused without debate.

(f) Any member proposing a resolution shall be held to have spoken, but a member merely seconding pro forma shall not be held to have spoken; and the mover of a motion only, and not the mover of an amendment, shall have the right to reply; but any member may, with the consent of the Chairman, speak again in a personal explanation.

(g) When a motion has been duly proposed and seconded the Chairman shall at once proceed to take the votes thereon, unless some member rises to oppose it or to propose an amendment. No more than two members shall speak in succession, either for or against any question before the meeting and if, at the conclusion of the second speaker's remarks, no member rises to speak on the other side, the motion or amendment shall be at once put to the meeting.

(h) At all meetings the voting shall be taken on the voices.

(i) Any member not satisfied with the result of the voting may demand a show of hands and/or a division.

(j) The ruling of the Chairman shall be final unless protested against by three of the members present, of whom the first only may state his or her reasons; and the Chairman may reply; and shall then, without further debate, put the question whether his or her ruling shall be upheld.

(k) No discussion shall be allowed except on a motion or amendment duly proposed and seconded.

(l) All motions and amendments must, if the Chairman deems it necessary, be submitted in writing.

(m) A motion made without notice may be withdrawn without leave, but only if the seconder assents. A motion made on notice may be withdrawn if there be no dissentient, but if there be a dissentient it shall proceed.

(n) A motion for adjournment of a meeting or of a debate may be made during a debate, and shall be put without discussion.

(o) Motions discussed and voted upon shall not be reconsidered unless one month's notice be given in writing.

(p) The Standing Orders may be suspended at any time by the vote of a majority of the members present.

## 39 - GENERAL

In these rules, words importing the masculine gender shall be deemed and taken to include females and words importing the feminine gender shall be deemed to include males, and the singular to include the plural and the plural the singular unless the contrary as to gender or number is expressly provided.

In these rules the word "Branch" or "Branches" wherever appearing unless a contrary indication appears shall mean the State Council or Committee of Management or other body by whatever name it may be known in which the management of the affairs of the Branch is vested.

## 40 - SPECIAL POWERS OF NATIONAL COUNCIL

(a) If circumstances should exist where, but for this rule, it is possible that the Federal Court of Australia, Industrial Division or a similar tribunal would acquire jurisdiction to make an Order or Orders under section 323 of the Act in respect of the Association or any Branches or any Officer of the Association or of any Branch then National Council shall notwithstanding any other rule to the contrary be empowered to make alter or rescind the rules of the Association by postal ballot to the extent necessary to enable National Council or the committee of management of a Branch or an officer or officers of the Association or of a Branch of the Association to take action for the reconstitution of the Branch or part of the Branch or of the National Council or the Committee of Management of the Branch or to enable the National Council or such Committee of Management to function effectively or for the filling of an office or position in the Association or in a Branch of the Association which is vacant and for which but for this rule there are or may be no effective means under the rules of the Association or Branch to fill the office or position.

(b) Circumstances to permit the operation of this Rule shall be deemed to exist when a Queen's Counsel nominated by the National President or National Secretary-Treasurer advises the Association that in his or her opinion such circumstances exist and a majority of members of National Council or National Executive either individually or in meeting assembled accept that opinion.

(c) Such postal ballot shall be taken by the National Secretary-Treasurer or failing him or her by the National President but shall not be effective to make alter or rescind the rules of the Association unless one half plus one of those entitled to vote in such ballot record a vote in favour of the proposed alteration.

(d) Nothing in this Rule shall authorise the making of any rule or the taking of any action contrary to the provisions of section 142 of the Act or which is otherwise contrary to law.

## 41 - DEVELOPMENT AND IMPLEMENTATION OF EXPENDITURE POLICIES

The Association and each of the Branches of the Association shall develop and implement policies relating to the expenditure of the Association or the Branch (as the case may be).

## 42 – SPECIAL DISCLOSURE PROVISIONS

1. The disclosure obligations imposed upon the Association and upon disclosing officers of the Association and its Branches by Part 2A of Chapter 9 of the Act are inter alia as regulated by that Act ,including in particular but without limiting the operation of the Act the provisions of Part 2A relating to:
2. the remuneration paid to officers of the Association or of a Branch by a Board or a related party of the Association; and
3. certain remuneration and benefits paid and provided to officers of the Association or of a Branch by the Association or by a related party of the Association or by a Branch; and
4. any material personal interests of disclosing officers of the Association and of a Branch; and
5. the restriction upon disclosing officers from taking part in making decisions in relation to matters in which they have a material personal interest; and
6. any payments made by the Association or by a Branch to related parties or to declared persons or declared bodies of the Association or of a Branch; and
7. the preparation, disclosure and timely lodgment of Officer and Related Party Disclosure Statements.
8. For the removal of doubt, remuneration paid to officers (including value and form of non-cash benefits) shall be taken not to include the reimbursement of, or allowance for, the cost of airfares, accommodation and sustentation for travel or other expenses reasonably incurred or required to be reasonably incurred by the officer in the service of the Association or Branch and in the performance of the officer’s duties where such expenditure is bona fide and subject to audit or like verification by or on behalf of the Association.
9. In this rule, “officer” means a member of the Association (including its Branches) who is an “officer” as defined in the Act.
10. The provisions of this rule shall apply to each Branch of the Association and to each officer of the Branch as if each reference to the Association was a reference to the Branch.

## 43– OFFICERS TO UNDERTAKE APPROVED TRAINING

1. The approved financial training obligations imposed upon the Association and each Branch by Division 4 of Part 2A of Chapter 9 of the Act are inter alia as regulated by that Act.
2. The relevant provisions of the Act provide broadly that, unless exempted under section 293M of the Act, newly elected or appointed officers whose duties include duties that relate to the financial management of the Association or Branch (as the case may be) must complete the approved training within 6 months of assuming office.
3. In this rule, “officer” means a member of the Association (including its Branches) who is an “officer” as defined in the Act.

## 44 – GENERAL DUTIES IN RELATION TO FINANCIAL MANAGEMENT

1. In addition to any duties set out elsewhere in these Rules, the general duties in relation to the financial management of the Association imposed by Part 2 of Chapter 9 of the Act, are as regulated by the Act, including, in particular provisions relating to:
2. the duty of an officer of the Association or of a Branch to exercise his or her powers and discharge his or her duties with the degree of care and diligence that a reasonable person would exercise if that person were an officer in the same circumstances and had the same responsibilities; and
3. the duty of an officer of the Association or of a Branch to exercise his or her powers and discharge his or her duties in good faith in what he or she believes to be in the best interests of the Association and for a proper purpose; and
4. the duty of an officer or an employee of the Association or of a Branch to not improperly use his or her position to gain an advantage for himself or herself or someone else or to cause detriment to the Association or to another person; and
5. the duty of a person who obtains information because he or she is, or has been, an officer or employee of the Association or of a Branch to not improperly use the information to gain an advantage for himself or herself or someone else or to cause detriment to the Association or to another person.

1. For the removal of doubt, the provisions of this rule shall be taken to apply to each Branch of the Association as if reference to the Association was a reference to the Branch.

## 45–OPERATION OF NEW RULES

The foregoing Rules 41, 42, 43 and 44 shall subject to the Act apply notwithstanding anything in these Rules or the Rules of any Branch to the contrary and shall additionally operate as a part of the Rules of each Branch of the Association.

\*\*\*END OF RULES\*\*\*