

FAIR WORK COMMISSION

FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009

Application under s159 and regulation 126 to alter the rules of an organisation

NOTICE OF PARTICULARS UNDER REGULATION 126(1) OF PROPOSED ALTERATIONS TO THE CHAPTER C RULE BOOK OF THE CPSU

1. I Karen Batt, Joint National Secretary of CPSU, the Community and Public Sector Union (“CPSU”) give notice of the particulars of alterations to Chapter C of the rules of the CPSU
2. The reason for making the proposed alterations is to:
 - 2.1. incorporate changes necessitated by the amendments to the *Fair Work (Registered Organisations) Act 2009* (“RO Act”) which came into force in May 2017;
 - 2.2. make amendments suggested by AEC returning officers in election reports in various State Branch and Federal elections in the SPSF Group over the course of 2016.
 - 2.3. correct various typographical and grammatical errors revealed through the operation of the replacement Chapter C which came into force in mid December 2015

A. PARTICULARS OF PROPOSED ALTERATIONS TO THE CHAPTER C RULE BOOK

3. The alterations proposed by this application are listed in the table below:

| Rule Number | Page | Alterations | Explanation |
|-------------|---------|--|--|
| 1.1 | 1 and 2 | Dictionary: <ul style="list-style-type: none"> • Insertion of new 1.1(j)(k) and (l) and deletion of 1.3 to 1.5 with consequential numbering amendments to Rule 1 | Clarifies that Branch and Federal Council is composed of delegates to those bodies include the Branch and Federal Officers. The change was requested by the AEC in the NSW returning officer’s election report |
| 4.5 | 13 | Federal Executive – Out of Session Ballots: <ul style="list-style-type: none"> • Deletion of 4.5(i) and (j) | This provision was added in error. The provisions we wish to delete led to confusion as to the necessary majority for an out of session ballot of the Federal Executive. |
| 5 | 13-14 | Proxy voting rule at Rule 5: <ul style="list-style-type: none"> • Deletion of the existing rule 5 and the insertion of a replacement | The amendment permits proxy voting at Branch Council level following problems of achieving quorum in NSW Branch. |
| 7.4(xiv) | 17 | Powers of Branch Council : <ul style="list-style-type: none"> • Delete “Branch Executive” and insert “Branch Officer or Officers” [amendment of Rule 7.2(xiv) to authorise a Branch Officer or Group of Branch Officers to employ] | This new provision will encompass the variety of methods the various Branch Councils authorise branch officers or a group of branch officers to employ or terminate staff. |

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| 7.4(h) | 19 | Branch Council – Out of Session Ballot Rule: <ul style="list-style-type: none"> deletion of Rule 7.4(h) | This provision was added in error. The current wording leads to confusion as to the necessary majority for an out of session ballot of the Branch Council |
| New 12.2(b)(vii) | 23 | Federal Secretary Duties – minute book rule: <ul style="list-style-type: none"> New provision 12.2(b)(vii) and consequential numbering amendments | The RO Act now requires that Federal Executive and Federal Council minute books be kept |
| 12.4 | 24 | 12.4 duties of Federal Vice Presidents: <ul style="list-style-type: none"> change of internal rule reference from 19.7 to 32.4 | The reference to the Chapter C rule [19.7] is incorrect it should be to Rule 32.4 |
| New 13.5(b)(v) | 25 | Branch Secretary Duties – minute book rule: <ul style="list-style-type: none"> New provision 13.5(b)(v) with consequential numbering amendments | The RO Act now requires that Branch Executive and Branch Council minute books be kept. |
| 17.2(e) | 30 | Power of Returning Officer: <ul style="list-style-type: none"> Delete “after” and replace it with “before” <p>[To issue an election notice specifying when the roll can be closed. Rule 17.2(e)]</p> | This amendment is required by the AEC, All returning officers during the last election specified in their election reports that the transposition of “before” and “after” in this provision rendered it nonsensical. The proposed amendment remedies this problem. |
| 20.10 [table] | 36 | Table of Nominators for Office at 20.10: <ul style="list-style-type: none"> Change “nominees” to “nominators” | Table wrongly refers to “nominees” rather than “nominators”. |
| 37.1(b)[Table] | 49 | Table of Electorates for various Federal Offices at 37.1(b) <ul style="list-style-type: none"> Delete “Federal Vice Presidents” and replace with “Federal Council” | The current iteration of Chapter C wrongly names the electorate for Federal President to be the Vice Presidents. The electorate has always been the Federal Council. This amendment makes that change. |
| 45 | 56 | Financial Disclosures Rule 45: <ul style="list-style-type: none"> delete the current Rule 45 and replace it with a new shorter version | The recent RO Act amendments removed the requirement for a rules based disclosure regime and replaced it with a directly legislated model. We have come to the conclusion that the existence two different regimes with slightly different requirements is too laden with risk and the potential for confusion. It is proposed that we delete the current rule based regime and create a new obligation in the rules based on the statutory disclosure requirements |
| 54.5 | 68 | Applications for membership: <ul style="list-style-type: none"> merge the text of the current 54.5 and 54.6 and delete 54.6 with consequential number amendments | In <i>Lillywhite, an election enquiry into CPSU (SPSF) Victorian Branch [2016] FCA 700</i> Jessup J noted the separation of 54.5 and 54.6 led to ambiguity. The new 54.5 simply joins those provisions together in one sub-paragraph – which is the form that provision took in all previous iterations of the rules before the replacement |

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| | | | Chapter C |
| 58 | 71 and 72 | Termination of membership Rule 58.2 <ul style="list-style-type: none"> • Insert a new sub heading “Resignation” numbered as 58.1 • Insert a new sub heading 58.2 “Group and Branch offices end on resignation” with new text after the sub-heading • Insert a new sub heading “Termination of membership” with the current 58.7 to 58.10 renumbered (a) to (c) [Amended so that a resignation as a member leads to termination of any office held by that resigning person] | We have recently had a circumstance where a member of a Committee of Management has resigned as a member and we have had to follow them up to also resign their office. This makes it clear that a resignation from membership brings about the end of the office held. |
| | 79 | Deletion of Schedule A transition arrangements | This applied to elections held in 2016 and is therefore now redundant |

B. DECLARATIONS ON RULE COMPLIANCE , ACTION TAKEN, PUBLICATION OF NOTICE, AND TRUTH REQUIRED BY REGULATIONS 126(1)(b), and 126(2)(a) to (c)

4. As Joint National Secretary I am authorised to make the following declarations:
- 4.1. I will file the following documents together with this notice of particulars;
- 4.1.1.A document entitled “Schedule X to the 8 November 2017 declaration of Karen Batt;”
- 4.1.2.A declaration entitled “8 November 2017 declaration of Karen Batt in support of an application to alter the Chapter C rule book of the CPSU” (“The 8 November Declaration”).
- 4.2. The 8 November Declaration establishes the actions taken by the CPSU to make the alterations particularised in this notice and establishes the alterations have been made in accordance with the CPSU rules;
- 4.3. I therefore declare:
- 4.3.1. the alterations were made in accordance with the CPSU rules;
- 4.3.2.The actions to make these alterations taken under those rules are as outlined in the 8 November declaration
- 4.3.3.The particulars set out in this notice and the 8 November Declaration are true and correct to the best of my knowledge and belief.

5. I have given instructions to my staff to post a notice explaining this application has been lodged on the website of the CPSU(SPSF) within five days of making this application

DECLARED BY KAREN BATT, JOINT NATIONAL SECRETARY OF THE CPSU, ON WEDNESDAY 8 NOVEMBER 2017



KAREN BATT



BEFORE ME

MARK DAMIAN PERICA

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