

# AUSTRALIAN FEDERAL POLICE ASSOCIATION BRANCH RULES *Ver. R2020-90*



## Document Summary

Document Prepared from the PFA Branch Rules for the AFPA under section 161 of the Fair Work (Registered Organisations) Act 2009.

**Document Authorised By:** AFPA National Executive

## Change Summary:

Version	Effective	Change Description	Updated By	Approved
001	8 Feb 2018		Business Support	AFPA National Executive
002	24 May 2019	Incorporates alterations of 24 May 2019 [R2019/37]	Business Services	Fair Work Commission (National Council March 2019)
003	14 Sep 2020	Incorporates alterations of 14 Sep 2020 [R2020/90]	Business Services	Fair Work Commission (National Council July 2020)

## Contents

<b>PART D - AUSTRALIAN FEDERAL POLICE ASSOCIATION BRANCH RULES .....</b>	<b>4</b>
<b>CHAPTER 1 – FOUNDATIONAL AND PRELIMINARY MATTERS .....</b>	<b>4</b>
53 – ESTABLISHMENT AND NAME .....	4
54 – LOCATION OF OFFICE .....	4
55 – OBJECTS .....	4
56 – STRUCTURE .....	5
57 – DEFINITIONS AND INTERPRETATION .....	6
58 – BRANCH AUTONOMY .....	8
<b>CHAPTER 2 – MEMBERSHIP .....</b>	<b>8</b>
59 – ELIGIBILITY FOR MEMBERSHIP .....	8
60 – ADMISSION TO MEMBERSHIP .....	8
61 – SUBSCRIPTIONS .....	8
62 – ASSOCIATION LEVIES .....	9
63 – UNFINANCIAL MEMBERS .....	10
64 - ALLOCATION AND TRANSFER OF MEMBERS .....	10
65 - TERMINATION OF MEMBERSHIP .....	10
66 - READMISSION TO MEMBERSHIP .....	11
67 - RECOVERY OF SUBSCRIPTIONS ETC FROM ANY MEMBER .....	11
68 - MISCONDUCT OF MEMBERS .....	11
<b>CHAPTER 3 – GOVERNANCE .....</b>	<b>13</b>
69 – OVERVIEW .....	13
<b>Division 1 – GENERAL MEETINGS AND PLEBISCITES .....</b>	<b>13</b>
70 – ASSOCIATION GENERAL MEETINGS .....	13
71 – PLEBISCITE OF ASSOCIATION MEMBERS .....	15
<b>Division 2 – ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES .....</b>	<b>15</b>
72 - ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES/DELEGATES TO NATIONAL COUNCIL .....	15
73 – DUTIES OF OFFICERS (INCLUDING WORKPLACE DELEGATES) .....	17
<b>Division 3 – NATIONAL COUNCIL .....</b>	<b>18</b>
74 – CONSTITUTION OF NATIONAL COUNCIL .....	18
75 – POWERS AND DUTIES OF NATIONAL COUNCIL .....	18
76 – MEETINGS OF NATIONAL COUNCIL .....	19
77 – AGENDA FOR NATIONAL COUNCIL .....	19
78 – FARES AND EXPENSES .....	20
79 – MATTERS REQUIRING DECISION BETWEEN NATIONAL COUNCIL MEETINGS .....	20
<b>Division 4 – NATIONAL EXECUTIVE .....</b>	<b>21</b>
80 - EXECUTIVE – COMPOSITION, POWERS AND DUTIES .....	21
81 – MEETINGS OF EXECUTIVE .....	22
82 – PRESIDENT .....	23
83 – VICE-PRESIDENT AND EXECUTIVE MEMBERS .....	23
84 – SECRETARY/TREASURER .....	24
<b>DIVISION 5 – ZONE GOVERNANCE .....</b>	<b>25</b>
85 – ZONES .....	25
86 – ZONE MANAGEMENT .....	26
87 - ZONE CONVENORS .....	26
88 - ZONE COMMITTEE .....	26
89 - POWERS AND DUTIES OF ZONE COMMITTEE .....	26
90 - MEETINGS OF ZONE COMMITTEE .....	27
91 – GUARANTEE OF FAIR REPRESENTATION .....	27
<b>Division 6 – ELECTION OF ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES .....</b>	<b>27</b>

<b>Division 7 – REMOVAL OF ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES .....</b>	<b>27</b>
92 – MISCONDUCT OF ASSOCIATION EXECUTIVE OFFICERS .....	27
93 – REMOVAL OF ZONE CONVENORS AND WORKPLACE DELEGATES.....	28
<b>CHAPTER 4 – ELECTIONS.....</b>	<b>28</b>
94 – ELECTION OF ASSOCIATION EXECUTIVE OFFICERS.....	28
95 – ZONE ELECTION RULE .....	32
96 – DUAL OFFICES .....	38
97 – ELECTION OF ASSOCIATION DELEGATES TO FEDERAL COUNCIL .....	39
<b>CHAPTER 5 – ASSETS AND FINANCE .....</b>	<b>39</b>
98 – ASSOCIATION FUNDS AND PROPERTY .....	39
99 – LOANS, GRANTS AND DONATIONS .....	40
100 – ASSOCIATION AUDITOR .....	41
<b>CHAPTER 6 – ALTERATIONS OF RULES.....</b>	<b>41</b>
101 – MAKING OR ALTERATION OF ASSOCIATION RULES.....	42
<b>CHAPTER 7 – OTHER MATTERS .....</b>	<b>42</b>
102 – ARBITRATION PROCEEDINGS AND INDUSTRIAL AGREEMENTS.....	42
103 – INSPECTION OF BOOKS & CONSIDERATION OF FINANCIAL REPORTS.....	42
104 – MEMBERS ENGAGED ON ASSOCIATION BUSINESS .....	43
105 – LEGAL ASSISTANCE.....	43
106 – STANDING ORDERS AND RULES OF DEBATE.....	43
107 – GENERAL MANAGER .....	43
108 – TRANSITIONAL – ASSOCIATE MEMBERS.....	44
 <b>ANNEXURE A: PFA – Rule 3. ELIGIBILITY FOR MEMBERSHIP</b>	 <b>45</b>

## **PART D - AUSTRALIAN FEDERAL POLICE ASSOCIATION BRANCH RULES**

### **CHAPTER 1 – FOUNDATIONAL AND PRELIMINARY MATTERS**

#### **53 – ESTABLISHMENT AND NAME**

- 1) There shall be and is a branch of the Police Federation of Australia by the name “Australian Federal Police Association”.
- 2) These Rules are the Rules of the branch referred to in Sub-Rule (1) of this Rule.
- 3) The branch referred to in this Rule is referred to as “the Association” but that expression does not affect the fact that it is a branch of the Federation.
- 4) The Rules of the Association as in force prior to the date of certification of this Rule (“the certification date”) shall cease to apply from the certification date except insofar as they conferred rights or imposed obligations on members or other persons or entities prior to the certification date.

#### **54 – LOCATION OF OFFICE**

The office of the Association shall be located in the Australian Capital Territory, at such place or places as the Executive shall from time to time determine.

#### **55 – OBJECTS**

The objects of the Association shall be:

- 1) To uphold the rights and to foster, protect and improve the rights and interests of members industrially and otherwise;
- 2) To obtain and secure for its members, the best possible conditions and proper and sufficient remuneration, and to guard them against any hardship, oppression or injustice in connection with their employment;
- 3) To take all necessary steps for the protection and safety of the members in the course of their occupation;
- 4) To take the necessary steps and actions under any industrial or other legislation, or otherwise, for the purpose of securing satisfactory industrial conditions in respect of the remuneration of labour, the hours of labour, the age of employees and other conditions in or about a member’s employment;
- 5) To promote industrial peace by all amicable means, such as conciliation, arbitration, or by the establishment of permanent boards, or to assist in the settlement of disputes or grievances by just and equitable methods;
- 6) To foster co-operation and harmonious relations between its members and affiliates throughout Australia;

- 7) To form a Benevolent and Welfare Fund for the promotion of welfare and benevolent assistance for members;
- 8) To establish and maintain such publications as may be in the interest of the Association and/or its members;
- 9) To promote the interests and effective delivery of Federal and Australian Capital Territory Law Enforcement;
- 10) To protect our members from any malicious, capricious or malevolent behaviour directed against them within the context of their professional role;
- 11) To provide professional general association services to association members;
- 12) To provide legal and other assistance to financial members whenever and wherever considered necessary;
- 13) To raise funds by fees, contributions, levies and other forms of income and investment for the purposes of advancing the best interests of the members;
- 14) To assist members financially or by other lawful means and/or to co-operate with any other organisation or association;
- 15) To purchase, take on lease, hold, sell, lease, mortgage, exchange and otherwise own, possess and deal with any real or personal property and in particular any land, buildings or easements for any purposes connected with the conduct of the Association;
- 16) To borrow or raise or secure the payment of money in such a manner as the Association may think fit, to secure the same, or the repayment or performance of any debt liability, contract, guarantee or other engagement incurred, or to be entered into by the Association in any way and to redeem or pay off such securities;
- 17) To sell, improve, manage, develop, exchange, lease, dispose of, turn to account, or otherwise deal with all or any part of the property and rights of the Association;
- 18) To do all such things as the Association may from time to time deem incidental or conducive to the attainment of the above objects or any of them but at all times recognising that the Association may be constrained to pursue only some of these objects to the exclusion of others from time to time or pursue some objects with differing priorities.

## **56 – STRUCTURE**

- 1) The Association consists of the members of it from time to time.
- 2) Each member shall be a member of a Zone.
- 3) Subject to the members convened in general meeting, the supreme governing body of the Association in respect of matters specifically assigned to it by these Rules shall be the National Council;

- 4) The Committee of Management of the Association is the Executive, which shall have the responsibility of managing and controlling the affairs of the Association subject to the direction of members in general meeting or by plebiscite, or direction by the National Council on matters within its authority.

## **57 – DEFINITIONS AND INTERPRETATION**

- 1) In these Rules, the following words or expressions shall have the following meaning, unless the contrary intention appears.
- a) “AFP” shall mean the Australian Federal Police;
  - b) “Association” or “the Association” means the Australian Federal Police Association, a branch of the Federation;
  - c) “Association Executive Officers” shall mean the officers of the Association identified in Rule 72(1);
  - d) “Branch” or “the Branch” means the Association;
  - e) “Casual vacancy” shall mean a vacancy occurring in an office after it has been filled and before the expiry of the term of that office;
  - f) “Convenor” means the Convenor of a Zone (formerly titled “Zone Co-Ordinator”);
  - g) “Executive” shall mean the Executive Committee of the Association constituted under these Rules;
  - h) “Federation” or “the Federation” means the Police Federation of Australia;
  - i) “Federation Rules” means the registered Rules of the Federation as they provide from time to time;
  - j) “Financial Reports” means the Auditor’s Report, General Purpose Financial Report and Operating Report in respect of any financial year of the Association;
  - k) “FWC” means the Fair Work Commission by that name or any other name, or any successor thereto;
  - l) “Legal assistance” shall mean:
    - (i) the provision of legal advice and representation of a member by a legally qualified employee of the Association, at no cost to that member apart from their fees; and/or
    - (ii) the provision of funding for or toward the legal costs (including expenses and disbursements) of a member by one or more legal practitioners engaged to provide legal services to that member.
  - m) “Members’ matter” shall mean any matter falling within the responsibility of the National Council other than the election or appointment of Association Executive

Officers or Workplace Delegates, the removal of any Association Officer or Workplace Delegate from office and the alteration of the Rules of the Association;

- n) “National Council” means the National Council of the Association;
  - o) “Office” shall bear the meaning assigned to it by the RO Act;
  - p) “Officer” shall mean the holder of an office, with the exception of a Returning Officer;
  - q) “Person” shall mean a natural person, a partnership or a corporation, as the case may require;
  - r) “Returning Officer” means the person holding or exercising the duties of the position referred to in Rule 94(6) or, where applicable, a member of the staff of the Australian Electoral Commission;
  - s) “Special Resolution” shall mean a resolution supported by not less than seventy-five percent (75%) of the persons entitled to vote on that resolution;
  - t) “the Rules” or “these Rules” shall mean the registered Rules of the Association as they provide from time to time;
  - u) “RO Act” or “the RO Act” shall mean the Fair Work (Registered Organisations) Act 2009 (Cth);
  - v) “Workplace Delegate” means a workplace delegate for a Zone;
  - w) “Zone” means a zone of the Association constituted by the Executive pursuant to Rule 85.
- 2) In these Rules, unless the contrary intention appears:
- a) The singular shall include the plural, and vice versa;
  - b) A reference to one gender shall include a reference to all other genders;
  - c) Headings are for convenience and do not affect meaning;
  - d) A reference to a communication “in writing” or “written” includes email or any other written form of electronic communication;
  - e) Any schedule to these Rules shall form part of these Rules;
  - f) The word “shall” is a word meaning mandatory requirement;
  - g) A reference to a statute shall include any amendments to that statute and any statutory instruments made pursuant to that statute, and shall also include any successors to such statute, whether in whole or in part.
- 3) A reference in the Federation Rules to “Zone Secretary” of the Association shall be deemed to be a reference to the Secretary/Treasurer of the Association.

## **58 – BRANCH AUTONOMY**

Notwithstanding any other provision of these Rules, the Association shall be completely and absolutely autonomous in matters affecting members of the Association only or its real and personal property and funds and shall be responsible for its own government and administration. It shall possess full and adequate powers to conduct its own affairs and to seek its objectives under the Rules. The control of the Association shall reside exclusively in the members of the Association. This Rule can never be altered except by a ballot of all financial members of Association conducted under Rule 71 of these Rules.

## **CHAPTER 2 – MEMBERSHIP**

### **59 – ELIGIBILITY FOR MEMBERSHIP**

See Rule 3 of the Federation Rules.

### **60 – ADMISSION TO MEMBERSHIP**

Without limiting the effect of the Federation Rules in relation to admission to membership of it, a person who is eligible to be a member of the Federation pursuant to Rule 3(i) of the Federation Rules, and who otherwise complies with the Federation Rules and these Rules, is entitled and shall, on application, be admitted to membership of the Association.

### **61 – SUBSCRIPTIONS**

- 1) Until otherwise determined by the Executive, the subscription for membership of the Association shall be calculated as follows:
  - a) In the case of Executive employees, 1.25% of the Executive Level minimum salary prescribed by the Executive Level Enterprise Agreement between the Association and the AFP from time to time;
  - b) In the case of all other employees (whether sworn or unsworn), 1.25% of the base salary for the employee concerned (that is, without any composite allowance) prescribed by the Enterprise Agreement between the Association and the AFP from time to time.
- 2) Subscriptions shall be due on the 1st July and shall be payable not later than the 30th September in the same year, provided that in the case of a member joining the Association after the 1st July in any financial year the subscriptions of such member for that year:
  - a) Shall be a pro rata amount calculated in accordance with the remaining number of complete months in that financial year; and
  - b) Shall be payable by that member not later than three months after the date of acceptance of their membership.
- 3) Notwithstanding anything contained in these Rules:



- a) The Executive may make arrangements with any employer whereby with the authority of any member the subscriptions payable by that member to the Association are to be deducted by the employer from the salary or salaries of the member on a regular basis and paid to the Association;
  - b) A member who has authorised such deduction of their subscription to the association from their salary shall, subject to the provisions of paragraph (c) of this Sub Rule, be deemed a financial member of the Association so long as such authority remains in force and provided that such member owes no arrears of subscriptions, fees or levies;
  - c) Where an arrangement referred to in this Sub Rule is terminated by the employer, the Secretary/Treasurer or the Zone Convenor shall notify in writing any member affected by such termination and a member so notified shall thereupon become liable to pay and shall, within twenty eight days from the date of such written notice, pay to the Association the balance of any contribution owing for the relevant year (which amount shall be specified in such notice and shall be the amount of the annual subscription payable by that member for that year less such amount or amounts as has or have been deducted by the employer from that member's salary in respect of such annual subscription) and thereafter shall be liable to pay subscriptions in accordance with this Rule;
  - d) The Secretary/Treasurer may make arrangements to provide for any Association members who choose to, to pay their subscriptions to the Association by means of automatic electronic funds transfer via a financial institution.
- 4) All subscriptions and fees payable by members of the Association shall be paid to and collected by the Secretary/Treasurer or their duly appointed agent.
  - 5) Where the Association becomes aware that payments required to be made by a member to the Association pursuant to any arrangement made under this Rule have ceased without notice to the Association, the Association shall within seven (7) days of becoming aware of such cessation notify the member and give them a reasonable opportunity, being not less than fourteen (14) days, to rectify any deficiency and make good any arrears.
  - 6) The Executive may, upon receipt of a written application by a member:
    - a) Permit the member to pay their subscription by instalments, and/or;
    - b) Exempt such member from the payment either wholly or in part of any subscriptions, fees or levies payable by such member where the Executive believes that that member's peculiar circumstances warrant such action by it.
  - 7) Where the Executive receives such an application from a member the Executive shall, before deciding on the application, advise the member in writing of the consequences of such an application on that member's rights as a member, as prescribed by Rule 63 (3), and give the member the opportunity to withdraw the application before it is decided upon by the Executive.

## **62 – ASSOCIATION LEVIES**

Levies shall not be imposed upon members except by a decision of the members in general meeting.

### **63 – UNFINANCIAL MEMBERS**

- 1) Subject to Rule 61(3) and Sub Rule (3) of this Rule, a member owing subscriptions, fees or levies for a period of three months after they first become due shall be deemed to be unfinancial.
- 2) In addition to the provisions of Rule 10 of the Federation Rules, an unfinancial member shall not be entitled to attend or speak or vote at any meeting of the Association.
- 3) Any member exempted pursuant to Rule 61(5) of these Rules from payment either in whole or in part of any subscription, fee or levy shall, for the purposes of these Rules, retain continuity of membership and be deemed financial but shall not, during the period of exemption, be eligible to nominate for or hold any office in or participate in any ballot or election in any Zone.
- 4) Without limiting the foregoing provisions of this Rule, and subject to those provisions, a member who is unfinancial shall not be entitled to any of the benefits of membership, or services of the Association during the period of unfinanciality, unless otherwise determined by the Executive.

### **64 - ALLOCATION AND TRANSFER OF MEMBERS**

- 1) An Association member shall be attached to a Zone, the composition, constitution and boundaries of which are to be determined from time to time by the Executive, in accordance with these Rules, in a manner determined from time to time by the Executive.
- 2) All members must be attached to the Zone that they could most conveniently belong to ensure fair and equal representation. Where possible a member will first be attached to a Zone that best represents their operational/functional role within the workforce, or geographical location. The Secretary/Treasurer shall allocate all members in accordance with Executive resolutions as adopted from time to time in accordance with these Rules.
- 3) A member, once attached to a Zone, must remain a voting member of that Zone. A member may be transferred to another Zone only in accordance with Executive resolutions .
- 4) The Executive must regularly review the constitution, membership and boundaries of all Zones to ensure fair and equal geographical, skills and role based representation. Should it be necessary the Executive will from time to time establish Zones to ensure maximum and equal representation of all members.

NB: See also Rule 85 (4) in connection with elections of Workplace Delegates.

### **65 - TERMINATION OF MEMBERSHIP**

- 1) In addition to the provisions of Rule 11 of the Federation Rules:
  - a) A member may resign from membership by notice in writing addressed and delivered to the Secretary/Treasurer or the office of the Association;

- b) A notice delivered in accordance with Rule 65(1) shall be taken to have been received by the Association when it was delivered;
  - c) A Zone Convenor in receipt of a notice of resignation from a member shall forward that notice to the Secretary/Treasurer forthwith.
- 2) Notwithstanding any other provisions of these Rules, if a member has failed to pay the subscriptions required by these Rules to be paid by them to the Association for a continuous period of 24 months from the date such amount becomes due for payment, then the Association shall as soon as possible after the expiry of that 24 month period, and in any event within a further 12 months of that latter date, remove the name of that person from the register of the Association's members. That person shall cease to be a member of the Association on the date that their name is removed pursuant to this sub Rule.

#### **66 - READMISSION TO MEMBERSHIP**

Subject to the provisions of the RO Act, the readmission of a person to membership who has resigned from or been expelled from the Association shall be conditional on the payment of any moneys owing by such persons to the Association in respect of their earlier membership and subject to the approval of the application by the Executive, provided that the Executive may in its discretion resolve to wholly or partially waive any such outstanding monies.

#### **67 - RECOVERY OF SUBSCRIPTIONS ETC FROM ANY MEMBER**

See Rule 10(e) of the Federation Rules.

#### **68 - MISCONDUCT OF MEMBERS**

- 1) Any financial member of the Association may report another member in writing, in respect of any of the following matters:
- a) Knowingly refusing to obey any of the Rules of the Federation or the Association;
  - b) Refusing to abide by a resolution carried at any meeting of the Association;
  - c) Defrauding or attempting to defraud the funds of the Association;
  - d) Making a false and malicious report against another member;
  - e) Violating or attempting to violate the terms of any industrial award or agreement;
  - f) Entering or attempting to enter into any agreement with any employer contrary to the provisions of any award or agreement secured by the Association and applicable to them;
  - g) Obstructing the National Council or other lawful committee or body of the Association in any way in the performance of any of its functions;
  - h) Obstructing any officer of the Association in the course of their duties;

- i) wrongfully holding themselves out as occupying any office or position in the Association in any capacity (to which charge it shall be a defence that the member believed bona fide and on reasonable grounds that the member was entitled to so act);
  - j) Behaving in a disorderly manner at any meeting held under these Rules or in the office of the Association;
  - k) Aiding or encouraging any other member or members in any offence under this Rule.
- 2) Any report shall be made in writing to the Secretary/Treasurer and shall be accompanied by a deposit equivalent to one month's subscription. The Secretary/Treasurer shall summon the member reported before a meeting of the Executive, or require the member reported to participate in a meeting of the Executive by means of a telephone conference. Such summons shall be in writing and shall set out the time and place of the meeting or the time of the telephone conference (as the case may be), the name of the person making the report and the substance of the report. The person reported shall be given such notice of the meeting or telephone conference as may be reasonable, having regard to all the circumstances and if required to attend at a place more than 80 kilometres from their address as shown in the books of the Association shall be given their return fare. The member shall, on request, be supplied with such further particulars as may be necessary to indicate the precise matters with which the member is reported.
- 3) The Executive shall have power to hear and determine reports under this Rule, subject to an appeal to National Council being open to the member reported.
- 4) At the appointed time and place (or any time and place to which the meeting is adjourned or postponed and of which the person reported is notified) the report may be investigated, whether or not the person reported is present, unless a satisfactory explanation of their absence has been received.
- 5) If the member reported attends they shall be informed of the substance and source of any information adverse to them on which the Executive relies. The member shall be given a reasonable opportunity to defend themselves and may, if they wish, tender written submissions.
- 6) If the Executive finds the member proved guilty it may do one or more of the following, keeping in mind the seriousness of the offence:
  - a) Impose no penalty;
  - b) Suspend the member from membership or deprive them of any right or benefits of membership for any specified 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 the benefits of membership but shall not relieve them of the obligations of membership and shall not exceed six months for any offence. If the specified event had not occurred or the specified act had not been done at the expiration of six months from the date of suspension, the suspension shall then lapse;
  - c) Expel them from the Association.

- 7) Upon completion of any hearing, the deposit shall be refunded to the member making report, provided that if upon investigation the report is found to be frivolous by unanimous decision of the Executive, the deposit shall be forfeited by the member who made the report and shall be paid into the funds of the Association.
- 8) An appeal shall lie at the instance of the member reported from any decision under this Rule from the Executive to the National Council. Notice of appeal shall be given in writing within two weeks of any decision being communicated to the member 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 Secretary/Treasurer.
- 9) No member against whom a report has been made pursuant to this Rule shall be entitled to commence or prosecute any action or legal proceedings for defamation against the person making the report or any person who gave evidence (either orally or in writing) or any person who exercised any power or duty in respect to the hearing of the report, it being a condition of membership of the Association that all complaints, notices, letters, evidence or other matter arising under or incidental to any report and the hearing and determination thereof and all proceedings and utterances at the hearing and determination thereof should be privileged and protected accordingly and should any action or legal proceedings be taken as aforesaid, this Rule shall be pleaded as an absolute bar thereto, provided that this Rule shall not protect any person against any legal liability for making, with express malice, a statement false to the knowledge of such person.

## **CHAPTER 3 – GOVERNANCE**

### **69 – OVERVIEW**

The governance structure of the Association consists of:

- 1) General meetings of member and plebiscites;
- 2) National Council;
- 3) Executive; and
- 4) Zone Committees.

The following seven (7) Divisions of this Chapter deal with each of these various parts of the structure and related matters.

### **Division 1 – GENERAL MEETINGS AND PLEBISCITES**

#### **70 – ASSOCIATION GENERAL MEETINGS**

- 1) A General Meeting of the Association may be convened in accordance with the requirements of this Rule to deal with either a Member's matter or for the specific purpose of considering the Financial Reports.
- 2) A General Meeting of the Association may be called at any time on a resolution of the National Council being carried that such a meeting be held.

- 3) A General Meeting of the Association shall be called by the Secretary/Treasurer upon receipt by them of:
- a) a direction to do so from the National Council; or
  - b) a petition signed:
    - i. by not less than five per cent of the financial members of the Association if the meeting is being convened to deal with a Members' matter; or
    - ii. by not less than five per cent of the members of the Association if the meeting is being convened for the purpose of considering the Financial Reports.
- Such petition shall state the business to be discussed at the meeting and shall contain the signature and name written in block letters of each petitioner and shall also contain a statement that the petitioner has read and understood the request prior to attaching their signature.
- 4) Not less than seven (7) days' notice of the time, place and agenda of a General Meeting shall be given, provided that when a matter requires immediate attention such lesser notice of a General Meeting as may be determined by the Executive may be given. Such notice to members shall be in writing and posted or delivered to each member's place or employment, or by email communication to a member's email address provided to the Association, or by notice published on the Association website.
- 5) A General Meeting shall not be competent to deal with any Members' Matter other than the reason set out by the petition of members or the notification of such meeting as has been given by the Secretary/Treasurer.
- 6) A General Meeting shall be held at such time and place as shall be determined by the Executive and shall be held not later than twenty-eight (28) days following the receipt of the petition by the Secretary/Treasurer.
- 7) A quorum for any General Meeting shall be at least five (5) percent of the financial members of the Association.
- 8) If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of a General Meeting, the meeting shall lapse but without prejudice to the calling of another General Meeting in accordance with the requirements of this Rule to deal with the same business, provided that no such further meeting may be convened without the approval of the Executive given by way of a special resolution.
- 9) Voting at all general meetings shall be by show of hands or by such other method as the meeting may decide. The Chair shall have a deliberative vote only and in the event of a tie the question shall lapse. Proxy voting shall not be permitted.
- 10) Notwithstanding any other provisions of these Rules a General Meeting may be conducted either:
- a) by way of one meeting of the members at one location, or by way of a series of meetings at different locations, with the General Meeting being taken to have

occurred, and the requirements for a quorum being determined, at the time of the last of the meetings in the series; or

- b) by way of one meeting of the members where electronic facilities allow a reasonable opportunity for members present at the meeting to see and hear each other, including in relation to their voting intentions, although those members are at different locations during the meeting.

## **71 – PLEBISCITE OF ASSOCIATION MEMBERS**

- 1) A plebiscite of all financial members of the Association in relation to any Members' Matter:
  - a) May be held at the discretion of the National Council or the Executive; and
  - b) Shall be held if required by a requisition in writing and signed by not less than five (5) per cent of the financial members of the Association.
- 2) The Executive shall approve for issue with the ballot paper a fair summary of the arguments for and against the question to be voted upon in the plebiscite and, for this purpose, the Secretary/Treasurer, after consultation with the parties in contention, shall submit to the Executive a draft of such summary.
- 3) Any such plebiscite shall be conducted by secret postal ballot and shall be under the absolute control and direction of the Returning Officer appointed pursuant to Rule 94(6) who shall:
  - a) Prepare ballot papers which shall contain the question to be voted on;
  - b) Cause to be posted to each member entitled to vote in the plebiscite a ballot paper, initialled by the Returning Officer, together with a reply paid envelope addressed to the Returning Officer, the summary approved by the Association Executive and such directions and instructions as the Returning Officer may deem necessary for the conduct of the plebiscite;
  - c) Determine the time and date for the closure of the ballot, having consideration for the convenience of the voters;
  - d) Take such steps as are necessary to ensure that a result is correctly ascertained;
  - e) Report the result of the plebiscite to the first meeting of the Executive held after the conclusion of the counting of the votes cast.
- 4) A simple majority decision of the members voting shall be final and shall prevail over any contrary decision of the National Council or the Executive.

## **Division 2 – ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES**

### **72 - ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES/DELEGATES TO NATIONAL COUNCIL**

- 1) The Association Executive Officers shall be:

- a) the President;
  - b) the Vice President;
  - c) the Secretary/Treasurer;
  - d) Six Executive Members.
- 2) In addition to the Association Executive Officers there shall be Workplace Delegates for each Zone whose duties and responsibilities shall be:
- a) to represent the members of the Association in their workplace to the best of their ability and to keep their Zone informed on all matters of importance occurring within their workplace;
  - b) to keep the members in the workplace informed about the business of the Association;
  - c) to endeavour to resolve all issues referred to them by members in their workplace by discussion with representatives of the AFP relevant to their workplace and in the event that an issue cannot be resolved by discussion, the Workplace Delegate shall refer the matter to the Zone Convenor, together with such other information as is necessary;
  - d) to diligently attend and participate in meetings of the National Council; and
  - e) to perform such other duties and responsibilities as are imposed on them by these Rules.
- 3) Workplace Delegates shall be elected to each Zone in accordance with the following formula in all such elections conducted after the certification of this Rule:
- (i) 1 to 100 members: one delegate;
  - (ii) 101 to 200 members: two delegates;
  - (iii) 201 to 300 members: three delegates;
  - (iv) 301 to 400 members: four delegates;
  - (v) 401 to 500 members: five delegates;
  - (vi) 501 to 600 members: six delegates;
  - (vii) 601 to 700 members: seven delegates;
  - (viii) 701 members and above eight delegates

PROVIDED THAT the above formula shall be reviewed by the Executive and the National Council every two (2) years following the certification of this Rule to determine whether any alteration is then required to continue to ensure fair representation of each Zone.



- 4) The term of office of a Workplace Delegate elected pursuant to these Rules shall be two (2) years from the date of such election, provided that they shall continue in that office until their successor takes up office. Any such person elected to such office is entitled to seek re-election for that office, if otherwise eligible in accordance with these Rules.
- 5) Any financial member of the Association is entitled to nominate and vote for the office of Workplace Delegate in the Zone to which they are allocated as at the date of calling of nominations for such office pursuant to Rule 95(5)(a)..
- 6) Elections for Workplace Delegates will be conducted in each Zone in accordance with Rule 95(5).
- 7) Any casual vacancy for the office of Workplace delegate shall be filled in accordance with Rule 95 (7).
- 8) Assistant Workplace Delegates may be co-opted by the Zone Convenor as they see fit in order to enable the Zone Committee and its members to carry out their duties under these Rules. The names of such Assistant Workplace Delegates shall be forwarded to the Secretary/Treasurer and one such Assistant Workplace Delegate shall act on behalf of any Workplace Delegate when they are on leave or not available.
- 9) Zone Convenors, Workplace Delegates, or Zones, except as provided in these Rules, shall not commit the Association to a course of action, either formally or informally, and shall not incur any expense or liability on behalf of the Association unless expressly authorised by the Executive.
- 10) For the purposes of this Rule a Zone Convenor shall be deemed to be a Workplace Delegate where there is no such position elected within the Zone in accordance with Sub Rule (3) of this Rule.
- 11) All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary except:
  - a) for the office of President as prescribed by Rule 82; and
  - b) any office to which Rule 83 applies where the Executive resolves that such office be a paid position, and subject to any conditions contained in such resolution.

### **73 – DUTIES OF OFFICERS (INCLUDING WORKPLACE DELEGATES)**

- 1) All Association Executive Officers and Workplace Delegates are required to give due and diligent attention to their duties to the Association, whether prescribed by these Rules, the RO Act or any other law.
- 2) Without limiting the foregoing, an Association Executive Officer or Workplace Delegate is under a duty to the Association to comply with the provisions of the Association's "Code of Conduct" as such Code provides from time to time.

- 3) Without limiting the effect of the preceding provisions of this Rule, Association Executive Officers shall also comply with financial accountability obligations prescribed by Part B1 of the Federation Rules.

### **Division 3 – NATIONAL COUNCIL**

#### **74 – CONSTITUTION OF NATIONAL COUNCIL**

- 1) The National Council shall consist of:
  - a) The Association Executive Officers; and
  - b) Subject to Rules 72(3) and 74(2) Workplace Delegates from each Zone, elected by and from the financial members of each Zone;
  - c) Each Zone Convenor as elected in accordance with these Rules, by and from financial members in each Zone.
- 2) The Zone Convenor shall, ex officio, be the first of the Zone's delegates to the National Council and shall be counted in the number of delegates eligible to be elected.
- 3) Where a Zone Convenor or Workplace Delegate of a Zone becomes an Association Executive Officer, they shall cease to be and act as a delegate of that Zone and that Zone shall be entitled to elect or appoint a delegate in their place in accordance with Rule 95(7) of these Rules.

#### **75 – POWERS AND DUTIES OF NATIONAL COUNCIL**

The National Council shall, subject to these Rules and the control by the members as hereinbefore mentioned, be the supreme governing body of the Association in relation to the following matters, and those matters only:

- 1) To determine and direct the general policy of the Association in all matters affecting the National Council;
- 2) To make, add to, amend, rescind and/or otherwise alter these Rules;
- 3) To approve guidelines for the granting of legal assistance to members pursuant to Rule 105;
- 4) To resolve that the Association affiliate with any other organisation or body that has industrial or political objects consistent with those of the Association;
- 5) To elect, in an election year, by and from its number, the Association Executive Officers as identified in Rule 72(1);
- 6) To remove any Officer of the Association from office as specified in Rule 92;
- 7) To confer Life Membership on any person in recognition of long or exemplary service rendered to the Association;

- 8) To nominate for award or national recognition any person in recognition of exemplary service rendered to the Association and/or law enforcement profession and/or welfare of law enforcement officers and victims of crime and/or the community; and
- 9) To exercise any other power specifically conferred on it by these Rules.

#### **76 – MEETINGS OF NATIONAL COUNCIL**

- 1) The National Council shall meet biennially in the months of March or April or at such other time as is determined by the Executive.
- 2) Special meetings of the National Council shall be held by resolution of the National Council or Executive.
- 3) The Secretary/Treasurer shall give each member of the National Council at least thirty (30) days' notice of the biennial meeting of National Council and seven (7) days' notice of any special meeting thereof.
- 4) The quorum for meetings of the National Council shall be one half of the persons entitled to attend and vote. If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of the meeting such meeting shall lapse but without prejudice to another such meeting being called for the same purpose as such meeting was called, at such other time and place as may be thought fit, upon seven (7) days' notice to all members by the Secretary/Treasurer provided that no such meeting may be convened without the approval of the Executive given by way of a special resolution.
- 5) Voting at all meetings of the National Council shall be by show of hands unless the National Council decides on another method. At all such meetings the Chair shall have a deliberative vote only and in the event of a tie the question shall lapse. Proxy voting shall not be permitted.

#### **77 – AGENDA FOR NATIONAL COUNCIL**

- 1) Not less than sixty (60) days prior to a biennial meeting of the National Council, the Secretary/Treasurer shall invite each member of the National Council to submit items for the agenda, such items to be forwarded to the Secretary/Treasurer not more than thirty (30) days after such invitation.
- 2) The Secretary/Treasurer shall, upon receipt of such items, prepare and forward to each member of the National Council a copy of the agenda paper at least fourteen (14) days prior to the biennial meeting of National Council.
- 3) The Executive shall have power to submit items for consideration by National Council and such items shall be included on the agenda paper referred to in Sub Rule (2) of this Rule.
- 4) The agenda paper for a special meeting of National Council shall be forwarded with the notice of such meeting.
- 5) National Council may, at any of its meetings, deal with any matter, pursuant to Rule 75, whether or not that matter has appeared or appears on the agenda paper, provided that a majority of the members of National Council present and voting, vote in favour of the particular item being considered.

## **78 – FARES AND EXPENSES**

The Executive shall determine from time to time the fares and expenses to be paid to or on behalf of members of the National Council and when attending meetings of the same or when attending to the business of the Association. Such fares and expenses shall be paid out of the funds of the Association.

## **79 – MATTERS REQUIRING DECISION BETWEEN NATIONAL COUNCIL MEETINGS**

- 1) The Executive may determine that any matter requires a decision of the National Council between biennial meetings of the National Council and that such matter be submitted to the National Council for decision in accordance with either of the procedures prescribed in Sub Rules (2) and (3) of this Rule.
- 2)
  - a) Where it is determined that the matter be submitted to the National Council for decision by ballot of the members of the National Council, such matter may be forwarded by post, email or facsimile to each of the members of the National Council in such form as is determined by the Executive.
  - b) The members of the National Council shall record their vote on the matter so submitted by post, email or facsimile addressed to the Secretary/Treasurer and the decision of the majority shall be binding as if such decision were obtained by vote at a regularly constituted meeting of the National Council.
  - c) All votes or their confirmation shall be signed by members of National Council recording the same.
- 3)
  - a) Where it is determined that the matter be submitted to the National Council for decision by a meeting of members of the National Council conducted by such telephonic or electronic means as may from time to time be available, the Secretary/Treasurer shall as soon as is practicable arrange such a meeting.
  - b) The members of the National Council shall participate in such a meeting and the decision of the majority shall be binding as if such decision were obtained at a regularly constituted meeting of the National Council.
- 4) If:
  - a) In the course of a ballot conducted pursuant to Sub Rule (2) of this Rule, a majority of members of the National Council notify the Secretary/Treasurer; or
  - b) In the course of a meeting conducted pursuant to Sub Rule (3) of this Rule, a majority of members of the National Council resolve, that the matter as submitted to them is of such importance as to require a special meeting of the National Council then such special meeting of the National Council shall be convened forthwith by the Secretary/Treasurer to meet at such time and place as the Executive shall determine.
- 5) At any special National Council meeting held pursuant to Sub Rule (4)(b) of this Rule the Executive may submit for consideration such other matters as it should determine, provided that written notice of not less than seven (7) days is given to all members of the National Council.

## **Division 4 – NATIONAL EXECUTIVE**

### **80 - EXECUTIVE – COMPOSITION, POWERS AND DUTIES**

- 1) The Executive shall consist of the Association Executive Officers and shall be the committee of management of the Association for the purposes of the RO Act. Subject to these Rules and the decisions of the National Council and the members in general meeting or by plebiscite, the Executive shall have full power to conduct and manage the affairs of the Association.
- 2) Without limiting the effect of Sub Rule (1), the Executive shall have the following powers:
  - a) Such powers as are specifically conferred on the Executive by any other provisions of these Rules;
  - b) The power to appoint an Association auditor, and to fix their fees or remuneration;
  - c) To remove an association auditor in accordance with Rule 100;
  - d) To fix the remuneration and benefits of Association Executive Officers;
  - e) To fix the remuneration of the Association Returning Officer;
  - f) Subject to the requirements of Rule 107 in the case of the General Manager, fix the terms and conditions of employment of employees of the Association;
  - g) Delegate the powers and responsibilities of the Secretary/Treasurer to the General Manager;
  - h) To appoint any person to represent the Association before any court, commission, board, tribunal or other authority;
  - i) To establish any committee or subcommittees as it may determine provided that any such committee or subcommittee shall be advisory only;
  - j) To enter the association into an affiliation with any other organisation or body other than those with industrial or political objectives;
  - k) Subject to the RO Act, to interpret these Rules;
  - l) To direct the investment of the funds of the Association;
  - m) To dispose of or transfer any of the funds of the Association or any securities in which the funds of the Association have been invested;
  - n) To establish such companies, agencies and bodies as are necessary to further the interests of the members;
  - o) To take such action or exercise such powers as are incidental to those specifically identified in these Rules.

## 81 – MEETINGS OF EXECUTIVE

- 1) The Executive shall meet at such times and in such places as it shall determine by resolution, and may meet as many times in a calendar year as it should so determine, provided that it shall meet no less than five (5) times in any one calendar year.
- 2) A meeting of the Executive may also be convened at the written request of the President or at least three (3) Members of the Executive, submitted to the Secretary/Treasurer. To avoid doubt, there is no limit on the number of such meetings that may be conducted in any one calendar year.
- 3) The Secretary/Treasurer shall give written notice of each meeting of the Executive as follows:
  - a) In the case of a meeting convened pursuant to Sub Rule (1) of this Rule, at least seven (7) days' notice of the time of the meeting; and
  - b) In the case of a meeting convened pursuant to Sub Rule (2) of this Rule, not less than forty-eight (48) hours' notice of the meeting, where practicable;

provided that where the Executive resolves to schedule more than one meeting pursuant to Sub Rule (1), the Secretary/Treasurer may notify the members of those dates by one communication listing all dates so fixed.

- 4) The quorum for meetings of the Executive shall be one half of the persons entitled to attend and vote. If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of the meeting such meeting shall lapse but without prejudice to another such meeting being called for the same purpose as such meeting was called, at such other time and place as may be thought fit, upon seven (7) days' notice to all members by the Secretary/Treasurer.
- 5) Notwithstanding any other provision of these Rules, any meeting of the Executive may be conducted in person, by telephone or videoconference, or by a combination of these forms of meeting or communication. Where any such Meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:
  - (a) Any such meeting is otherwise convened and conducted in accordance with the requirements of the Rules, including (without limitation) the preceding provisions of this Sub Rule; and
  - (b) Each of the members participating in the meeting must be able to hear each of the other members present at the meeting.
- 6) Where in the opinion of the President a matter requires the consideration of the Executive before its next scheduled meeting, the Executive may be consulted in writing (including electronic means) by circular proposed resolution. Such a proposed resolution shall become a resolution of the Executive as at the date set for return of responses, provided that the proposed resolution is supported by at least fifty (50) percent of the total number of Executive Members then holding office, plus one. A resolution passed by way of such circular resolution shall be reported to the next Executive meeting.

- 7) To avoid doubt, in this Rule, communication by way of email to a person at that person's email address notified to the Association shall be deemed sufficient to constitute written communication to that person.
- 8) It shall be the duty of each Association Executive Officer to attend every meeting of the Executive unless granted leave by the Executive.
- 9) At all meetings of the Executive voting shall be by show of hands unless the meeting decides on another method. The Chair shall have a deliberative vote only and in the case of a tie the question shall lapse. Proxy voting shall not be permitted.

## **82 – PRESIDENT**

- 1) The President shall preside at all meetings of the National Council and the Executive and any meeting of the Association held by decision of the National Council. They shall preserve order so that the business may be conducted in due form and with propriety and upon the minutes being confirmed shall sign those minutes in the presence of the meeting.
- 2) The President shall have the authority to act for and on behalf of the Executive in any matter of such urgency that the Executive cannot reasonably be convened or consulted under these Rules, but shall report the full circumstances of such action to the Executive at the first available opportunity.
- 3) In addition to the foregoing obligations, the President shall undertake full time the role of being principal spokesperson and public representative of the Association, with the principal place for the performance of those duties being at and from the location of the National Office as determined pursuant to Rule 54.
- 4) The Office of President shall be a full time paid position on terms and conditions prescribed by resolution of the National Executive from time to time.

## **83 – VICE-PRESIDENT AND EXECUTIVE MEMBERS**

- 1) The Vice President shall assume the duties of the President in the absence of that Officer for any reason, and shall otherwise perform such duties and functions as may from time be allocated to them by resolution of the Executive. Provided that:
  - a) if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive Members to act as Vice President until either that Officer or the President becomes available; or
  - b) if the President is unavailable for any reason and the Vice President either advises the General Manager in writing that they are unwilling to assume the duties of President or fails to take up those duties within seven (7) days of the requirement to do so arising, the Executive may appoint another member of the Executive to act as President until the President becomes available.
- 2) Each Executive Member shall at all times assist the President in the execution of their duties and provide oversight, direction and assistance to Convenors and Workplace Delegates. The Executive will determine which Convenors and Workplace Delegates are to be allocated to each of the Executive Members for oversight, direction and assistance.

- 3) The Executive may resolve that any office to which this Rule relates shall be a paid position, provided that any such resolution must specify:
- a) whether the position is full time or part time, and if the latter the hours and/or days of work;
  - b) the duties of the paid position;
  - c) the principal place at or from which the duties are to be performed;
  - d) the duration of the paid position; and
  - e) the terms and conditions for the position, including remuneration,

PROVIDED THAT:

- f) The principal place at or from which the duties are performed shall be the National office as determined pursuant to Rule 54, unless the Executive resolves otherwise; and
- g) Any such resolution may be altered or rescinded at any time by the Executive, on not less than thirty (30) days notice to any incumbent.

#### **84 – SECRETARY/TREASURER**

- 1) The Secretary/Treasurer shall:
- a) Summon by notice in writing to each member thereof and attend, unless excused, all meetings of the National Council and the Executive and keep or cause to be kept correct minutes of the same, which minutes when confirmed are to be electronically stored in the Association's records;
  - b) Have the right to speak at any general or special meeting of any Association or Zone Committee, but not to vote unless they are a member of such Zone Committee;
  - c) Initiate or respond to all correspondence as appropriate to these Rules;
  - d) Keep or cause to be kept the records required to be kept by an organisation pursuant to the provisions of the RO Act;
  - e) Lodge and file with and furnish to the General Manager of the Fair Work Commission and the Registered Organisations Commissioner all such documents as are required to be lodged, filed or furnished under the RO Act at the prescribed times and in the prescribed manner;
  - f) Keep an up to date register of members showing their names, their postal address and email address where notified, and their allocated Zone under the Rules and provide the Returning Officer with such assistance as is necessary to enable them to conduct any election;



- g) Receive all monies on behalf of the Association and pay the same within seven days of receipt into such financial institution or institutions as the Executive may direct to the credit of the Association;
  - h) Issue or cause to be issued proper receipts for all moneys received by or on behalf of the Association;
  - i) Be responsible for but not hold in their name, the books, records, property and moneys of the Association and, within 48 hours of receiving a request from the Executive to do so, deliver to the Executive such books, records, property and moneys;
  - j) Submit their books, accounts and receipts annually or as often as may be required by the Executive or to the auditors and to give them such assistance as they may require in the audit;
  - k) Draw up a report and balance sheet each financial year and forward a copy of same to each member of the Executive within three months of the end of the financial year to which it relates;
  - l) Prepare and submit to each meeting of the Executive an up-to-date financial statement and, when called upon so to do by the President, or the Executive, produce all relevant books in support of the same;
  - m) Subject to Rule 98(2), submit to the Executive all accounts for payment with their recommendations and make all authorised payments from the funds of the Association, such payments to be approved by any two of the Association Executive Officers appointed by the Executive;
  - n) At the direction of the Executive, carry out other duties as required.
- 2) The Secretary/Treasurer may deputise a member of a recognised Institute of Accountants approved by the Executive to keep the books of the Association, in which event they shall remain responsible for the supervision of their preparation and their accuracy.
  - 3) The duties prescribed in this Rule are to be carried out under the direction and control of the Executive which may from time to time delegate some of those duties by resolution to other Association Executive Officers or to the General Manager pursuant to Rule 107.
  - 4) To avoid doubt, the Secretary /Treasurer may be assisted in the performance of any of their duties under the Rules by the General Manager or any other employees so authorised by resolution of the Executive.

## **DIVISION 5 – ZONE GOVERNANCE**

### **85 – ZONES**

- 1) Subject to the provisions of this Division the Executive of the Association may from time to time establish Zones of the Association. The Executive shall ensure that each Zone is operationally viable and represents a geographical, operational or other community of interest. The Executive must ensure that no inherent or contrived bias shall prejudice the reasonable application of the principle ‘one vote - one value’ for members through the

establishment of a Zone. To ensure ongoing viability of a Zone, the Executive may appoint as many Assistant Workplace Delegates to a Zone as are required to allow proper representation of the Zone members.

- 2) Where a new Zone is established the new positions of Zone Convenor and Workplace Delegates will be filled in accordance with Rule 95.
- 3) The Association may disband such Zones as the Executive may from time to time decide. Where an existing Zone is disbanded the existing positions of Zone Convenor and Workplace Delegates held within the Zone will cease to exist at the completion of their current term or upon vacation of the office before that time.
- 4) Notwithstanding any of the previous provisions of this Rule, the Executive may not establish a new Zone, or disband or alter the coverage of any existing Zone, any later than 31 March in any year in which a biennial election for Workplace delegates is due to be conducted pursuant to Rule 95.

## **86 – ZONE MANAGEMENT**

The government, management and control of the affairs of each Zone shall, subject to these Rules and any direction of the Executive be vested in a Zone Committee constituted by the elected Workplace Delegates, any assistant workplace delegates appointed, and the Zone Convenor of that Zone.

## **87 - ZONE CONVENORS**

The Zone Convenor shall, ex officio, be a member of all Committees and Sub-Committees of the Zone.

- 1) The Zone Convenor shall:
  - a) Preside at all meetings of the Zone's Committee and preserve order thereat so that business may be conducted in due form with propriety and in conformity with standing orders;
  - b) Sign all documents requiring their signature as official head of the Zone and shall sign all minutes of the Zone duly confirmed in the presence of the meeting confirming the same;
  - c) Call meetings of the Zone committee when necessary;
  - d) Generally, ensure the well-being of the Zone and its members and the carrying out of the objects of the Association within the area administered by their Zone;

## **88 - ZONE COMMITTEE**

A Zone Committee shall consist of the Zone Convenor, such Workplace Delegates in number as elected in accordance with Rule 72(3) and Rule 95 and any Assistant Workplace Delegates if appointed.

## **89 - POWERS AND DUTIES OF ZONE COMMITTEE**

A Zone Committee shall, subject to these Rules and to the control of the Zone members as hereinafter mentioned, have power:

- 1) To take any action which in its opinion is in the interests of the Zone, provided that such action does not conflict with the policies of the Association or any decision or direction of the National Council or the Executive; and
- 2) To exercise any other powers conferred upon it by these Rules.

#### **90 - MEETINGS OF ZONE COMMITTEE**

A Zone Committee shall meet at such times as it may determine provided that the President or the Secretary/Treasurer may, by notice in writing either by post or electronic means, call a meeting of the Zone Committee and shall call such a meeting if requested to do so by not less than one-third of the members of such Committee. The Zone Convenor shall cause accurate minutes of all Zone meetings to be kept and maintained.

#### **91 – GUARANTEE OF FAIR REPRESENTATION**

The Executive, when establishing the composition of any Zone will ensure as far as practicable that all Association members shall receive fair representation of their professional and industrial interests on the National Council. The Executive shall ensure that Zone compositions will preclude any institutional gerrymander which defeats the representation of members' interest.

### **Division 6 – ELECTION OF ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES**

See Chapter 4

### **Division 7 – REMOVAL OF ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES**

#### **92 – MISCONDUCT OF ASSOCIATION EXECUTIVE OFFICERS**

- 1) An Association Executive Officer may be removed from their office if the National Council by majority resolution of members voting finds them guilty, in accordance with these Rules, of misappropriation of the funds of the Association, a substantial breach of the Rules of the Federation or the Association, gross misbehaviour or gross neglect of duty or finds that they have ceased, according to these Rules, to be eligible to hold their office.

[Note: See Rule 73(1) and Rule 81(8) – failure by an Association Executive Officer to attend three consecutive meetings of the Executive without leave may constitute a serious breach of the Rules or gross neglect of duty.]

- 2) Any member suspecting an officer to be liable to removal pursuant to Sub Rule (1) may report such officer under this Rule. Any report shall be in writing and shall be forwarded to the President or the Secretary/Treasurer, who shall notify the person reported of the details of the report.

- 3) The person reported shall be given not less than fourteen days' notice in writing of the time and place of the meeting at which the report is to be heard and determined and shall be entitled to attend such meetings and to be heard but not to vote thereat.
- 4) Notwithstanding the foregoing, the Executive by majority resolution may, in their discretion, suspend from office or Association membership a person reported under this Rule pending determination of the report but in no event shall a person remain suspended for a period exceeding twenty-eight (28) days.
- 5) A person shall be ineligible to hold office under this Rule if they cease to be a financial member of the Association.

### **93 - REMOVAL OF ZONE CONVENORS AND WORKPLACE DELEGATES**

- 1) A Zone Convenor or Workplace Delegate may be removed from their office if the Executive by a majority resolution of members voting finds them guilty, in accordance with these Rules, of misappropriation of the funds of the Association, a substantial breach of the Rules of the Federation or the Association, gross misbehaviour or gross neglect of duty or finds that they have ceased, according to these Rules, to be eligible to hold their office.
- 2) Any member suspecting such an Officer to be liable to removal pursuant to Sub Rule (1) may report that officer under this Rule. Any report shall be in writing and shall be forwarded to the Secretary/Treasurer, who shall notify the person reported of the details of the report.
- 3) The person reported shall be given not less than fourteen (14) days' notice in writing of the time and place of the meeting at which the report is to be heard and determined and shall be entitled to attend such meeting and to be heard but not to vote thereat.
- 4) A member so removed by the Executive shall have the right of appeal to the National Council provided that the member gives to the Secretary/Treasurer notice of their intention to appeal within seven days of the member being notified in writing of their removal, but the giving of such notice shall not operate to stay the decision of the Executive.
- 5) Notwithstanding the foregoing, the Executive may, in its discretion, suspend from office a person reported under this Rule pending determination of the report but in no event shall a person remain suspended for a period exceeding twenty-eight (28) days.
- 6) A person shall be ineligible to hold office under this rule if they cease to be a financial member of the Association.

## **CHAPTER 4 – ELECTIONS**

### **94 - ELECTION OF ASSOCIATION EXECUTIVE OFFICERS**

- 1) Election and Tenure of Office
  - a) The President shall be elected by secret ballot by and from the National Council and shall take office from the declaration of their election or the conclusion of the National Council meeting at which they were elected whichever is the later. They shall hold office for a period of four years or until a successor thereto has been elected and taken

office. Such an election shall be conducted at every second biennial meeting of National Council, occurring thereafter.

- b) The Vice President, Secretary/Treasurer and the Six Executive members shall be elected by secret ballot by and from the National Council. The persons so elected shall take office from the declaration of their election or the conclusion of the National Council meeting at which they were elected, whichever is the later. Commencing from the elections to be conducted in 2021, they shall hold office for a period of four years or until a successor thereto has been elected and taken office. Such an election shall be conducted at every second biennial meeting of the National Council, occurring thereafter.

## 2) Qualifications for Office

- a) A nominee for the office of President, Vice President, Secretary/Treasurer or Executive Member shall be a financial member of the Association at the date of their nomination and:
  - (i) Shall be a member of the National Council; and
  - (ii) Nominated by two members of the National Council.

## 3) Manner of Election

- a) The Returning Officer shall call for nominations for the office of President, Vice President, Secretary/Treasurer and Executive Members sixty (60) days prior to the meeting of National Council, in an election year, provided that nominations for the said offices shall close seven (7) days prior to such meeting. The roll of voters for these elections shall close no later than seven (7) days prior to the date upon which nominations are to be called.
- b) Nominations shall be in writing, signed by the nominee and two (2) nominators (who shall be members of the National Council) and shall be delivered to the Returning Officer in a form and by a means nominated by the Returning Officer.
- c) The Returning Officer shall check all nominations received for compliance with the requirements of these Rules and shall reject any that do not so comply, provided that in the event of the Returning Officer finding a defect in any nomination, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the nominee the opportunity of remedying the defect where practicable within a reasonable period of the nominee having been so notified.
- d) Pursuant to sub Rule (1) of this Rule the election of the Association Executive Officers shall be held during the National Council meeting occurring in an election year during the period of such a year prescribed by sub Rule (1) of Rule 76.
- e) If only one nomination for a position is received by the Returning Officer, the nominee shall be declared elected. If two or more nominations are received the Returning Officer shall forthwith conduct a ballot of National Council members in accordance with this Rule and declare the result as soon as it becomes available.

- f) If more nominations are received than there are vacancies for a position, the Returning Officer shall have ballot papers prepared containing the names of the candidates for each position in order determined by lot, indicating the number to be elected to each position, the manner in which votes shall be recorded, and the date and the time of closing of the ballot.
  - g) The Returning Officer shall be responsible for the safe custody of the ballot papers and shall initial every ballot paper prior to distribution.
  - h) The Returning Officer shall provide a ballot paper to each member of the National Council in attendance at the meeting who is eligible to vote, and shall arrange for the use of a receptacle to which ballot papers shall be returned to. After the closing of the ballot, the Returning Officer shall collect the ballot papers from such receptacle.
  - i) Upon collecting the same the Returning Officer shall, in the presence of the scrutineers (if so requested), count all the votes cast and, subject to paragraph (j) of this Sub Rule, declare the result of the ballot.
  - j) If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows:
    - (A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.
    - (B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.
    - (C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw.
  - k) Upon declaration of the ballot, the Returning Officer shall seal and retain all ballot papers for a period of twelve (12) months after the conduct of the ballot.
- 4) Casual Vacancy
- a) Where a casual vacancy (howsoever occurring) arises in the office of President, Vice President, Secretary/Treasurer or any of the Executive members then the Secretary/Treasurer or in the case of casual vacancy in the office of Secretary/Treasurer, the President, shall take immediate action to have such vacancy filled provided that:
    - (i) Where the unexpired portion of the term of office in which the vacancy occurs does not exceed three quarters of the term, the Executive may fill such vacancy by appointment of an eligible member of the National Council; and

- (ii) Where the unexpired portion of the term of office in which the vacancy occurs exceeds three quarters of the term, the Executive may fill such vacancy by appointment of an eligible member of the Association until an election is held, provided that no person so appointed shall hold office for a period exceeding three months.
  - b) Such election shall be conducted by secret postal ballot of the members of the National Council by the Returning Officer appointed pursuant to Rule 94(6), and the Returning Officer so appointed shall determine the dates for the opening and closing of nominations and the ballot. The Returning Officer shall report the result of the election to the next following meeting of the Executive.
  - c) Any person so elected shall take office from the date of the declaration of their election and shall hold office until the expiration of the term of the person they replaced.
  - d) In all other respects such election shall be conducted in accordance with the provisions of this Rule.
- 5) System of Voting
- a) The system of voting in any election conducted pursuant to this Rule shall be the first-past the post system.
  - b) A voter shall record their votes by marking sequential numbers on the ballot paper, commencing with the number 1, in the squares opposite the names of the candidates so as to indicate the order of the voter's preference for each candidate, provided that failure by a voter to mark a preference beyond the number of candidates to be elected shall not invalidate the vote of that voter.
- 6) Returning Officer
- Subject to the requirements of the *Fair Work (Registered Organisations) Act 1999*:
- a) At its first meeting after the certification of these Rules, the Executive shall appoint a Returning Officer for the conduct of any elections, ballots or plebiscites as may be necessary throughout the ensuing period provided that a duly appointed Returning Officer shall hold office until a successor thereto is duly appointed.
  - b) A Returning Officer:
    - (i) Need not be a member of the Association; and
    - (ii) In any event, shall not be the holder of any office in or an employee of the Federation, Association or any Zone of the Association.
  - c) In the event of a duly appointed Returning Officer being unable or unwilling to act as and when required, whether during the conduct of any election ballot or plebiscite or not, the Executive shall appoint another person to act as Returning Officer for that election, ballot or plebiscite.

- d) The Returning Officer shall have power to appoint such assistants as deemed necessary provided that such assistants shall at all times be subject to the absolute control and direction of the Returning Officer.

7) Scrutineers

Any candidate may if they so desire appoint a scrutineer who is a financial member of the Association, to represent them at the ballot. The candidate appointing the scrutineer shall, before the closing of nominations, notify the Returning Officer in writing of the name of such scrutineer, who:

- a) Shall be entitled to be present throughout the ballot and may query the inclusion or exclusion of any vote in the count, but the Returning Officer shall have final determination of any votes or queries;
- b) Shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election;
- c) Shall not interfere with or attempt to influence any member at the time such member is casting their vote.

8) Absent Voting

A member who is entitled to vote and who will be absent during the conduct of the ballot may apply for an absent vote by lodging with the Returning Officer, prior to the National Council meeting, a written request for an absent vote, together with an address at which they can receive communications. The Returning Officer shall forward a ballot paper to the address so specified and shall notify the member of the closing date for the absent vote to be lodged.

## **95 - ZONE ELECTION RULE**

1) General

The provisions of this Rule shall apply to all elections for the following offices in a Zone:

- a) Zone Convenor; and
- b) Workplace Delegate

2) Tenure of Office and number of offices

- a) Where an established Zone exists, Zone Convenors and Workplace Delegates, who are Delegates to National Council in accordance with Rule 72 (3), shall be elected by secret postal ballot of all financial members within their respective Zones. They shall take office from the declaration of their election, and shall hold office for a period of two years or until a successor thereto has been elected and taken office.
- b) Where a new Zone is established under Rule 85(2), Zone Convenors and Workplace Delegates, who are Delegates to National Council in accordance with Rule 72(3), shall be elected by secret postal ballot of all financial members within the new Zone. They shall take office from the declaration of their election and shall hold office for a period



pre-determined by the Executive which ensures that the expiry date of the term of office is synchronised with the majority of the established Zones of the Association.

- c) The number of Workplace Delegates to be elected for each Zone shall be determined in accordance with the formula in Rule 72 (3) as at the date of the close of the roll of voters for each election for those offices.

### 3) Qualifications for Office

A nominee for any office in a Zone shall be a financial member of the Association and allocated to that Zone as at the date of their nomination.

- 3A) A member may not vote, nominate candidates for election or nominate for election in any Zone other than the one to which that member has been allocated by the Secretary/Treasurer pursuant to Rule 64 prior to the close of the roll ("the closure") unless the Secretary/Treasurer declares in writing to the Returning Officer before the calling of nominations that:

- (i) the allocation of that member to that Zone prior to the closure of the roll did not conform to the requirements of the applicable National Executive resolution ("the relevant Resolution") in effect at the time that the Secretary/Treasurer made the allocation; or
- (ii) subsequent to the allocation and prior to the closure the employment circumstances of the member had altered to such an extent that compliance with the relevant Resolution required the allocation of that member to another Zone

- in which case the member shall be reallocated to the correct Zone and may vote, nominate candidates for election and stand for election in that Zone.

### 4) Returning Officer

The Returning Officer is appointed in accordance with Rule 94(6).

### 5) Conduct of Elections

#### *The Call for Nominations*

- a) Not later than the 1st day of June in the year of an election, the Returning Officer shall call for nominations by circular (which may be by electronic means) to all eligible members of the Zone under this Rule, or by advertisement in a daily newspaper and/or Union Journal circulating throughout the State or Territory in which the Zone has members, and shall publish nomination forms on the Association's website and issue nominations forms to any financial member requesting the same.
- b) Nominations shall be in writing, signed by the nominee and the nominator (who shall be a financial member of the Branch) and shall be delivered to the Returning Officer at the address or in the manner (including electronic form) specified in the circular calling for nominations not later than 5pm on the 1st day of July in the year of the election.

- bA) Nominations may be withdrawn up to and including 5 working days after the time and date the Returning Officer has declared that nominations shall close. The withdrawal of such nomination shall be in the form determined by the Returning Officer and shall be signed by the nominee.

*Nominations Close*

- c) The Returning Officer shall check all nominations received for compliance with the requirements of these Rules and shall reject any that do not so comply; provided that in the event of finding a defect in any nomination the Returning Officer shall before rejecting the nomination notify the person concerned of the defect, and, where practicable give them the opportunity of remedying the defect in not less than seven days after the person is notified.
- d) If there are not more nominations than there are vacancies for a position, they shall declare the nominated person or persons elected to the position.

*Preparation for an Election: the Preparation of Ballot Papers*

- e) If more nominations are received than there are vacancies for a position, they shall have ballot papers printed and delivered to them containing the names of the candidates for each position in order determined by lot, indicating the number to be elected to each position, the manner in which votes shall be recorded, and the date and time of closing of the ballot such date being not later than the 31st day of August immediately following the closing of nominations. The roll of voters for the ballot is to be closed twenty-one (21) days before the day on which nominations for the election open.
- f) The Returning Officer shall be responsible for the safe custody of the ballot papers.
- g) They shall obtain from the printer a certificate of the number of ballot papers printed.
- h) They shall initial every ballot paper prior to its distribution.

*Arrangements for the Receipt of Ballot Material*

- i) The returning officer shall, for the purposes of receiving ballot material in respect of a ballot, use a private box or other secure postal facility at a post office or mail centre. Access to the private box mentioned in this rule shall be limited to:
- Persons authorised by Australia Post,
  - The returning officer, and
  - Persons authorised in writing by the returning officer.

*The Delivery of Ballot Papers to Eligible Voters*

- j) On or before the opening day of the ballot the returning officer shall forward ballot material in a sealed envelope by prepaid post to each person on the roll of voters at the address shown on the roll of voters.
- k) Ballot material shall include:

- a) one or more ballot papers showing the time and date of the close of the ballot
- b) a Reply Paid envelope addressed to the private box referred to in the rule, being an envelope that may be posted without expense to the voter,
- c) an inner 'Declaration Envelope' as prescribed by the Act, suitable for containing the ballot papers.

*Lost, Destroyed or Spoilt Ballot Papers*

- l) Where a member whose name is on the roll of voters claims that the ballot material has not been received or has been lost, destroyed or spoilt, the member may make an application to the Returning Officer for the issue of replacement ballot material
- m) The application shall
  - be in writing
  - set out the applicant's full name and postal address
  - set out the grounds on which the application is made
  - contain a declaration that the applicant has not voted in the ballot
  - be accompanied, if practicable, by any evidence that is available of the loss, destruction or spoiling of the ballot material.
- n) If the returning officer is satisfied that the information contained in the application is true and correct, the returning officer shall issue replacement ballot material to the applicant.

*The Safe Custody of Ballot Papers that are Returned*

- o) During the course of the ballot the returning officer may collect returned envelopes from the private post box and keep them in safe custody until the commencement of the scrutiny. The returning officer shall make a final clearance of returned envelopes so that all envelopes received by the returning officer prior to the closing time for the ballot are admitted to the scrutiny. No envelopes returned after the close of the ballot shall be admitted to the scrutiny.

*The Scrutiny of Ballot Papers*

- p) The returning officer shall conduct a preliminary scrutiny of returned declaration envelopes to ensure that only one returned envelope from each eligible voter is admitted to the count. The returning officer may commence the preliminary scrutiny prior to the close of the ballot.
- q) Before proceeding to count the votes to ascertain the result of the ballot, the returning officer shall:

- remove the 'Declaration Envelope' from the Reply Paid envelopes, and
  - examine the voter's declaration attached to each 'Declaration Envelope' and mark off the voter's name against a copy of the roll of voters.
- r) A voter's returned ballot material shall be rejected and set aside if:
- ▪ the 'Declaration Envelope' has not be returned, or
  - ▪ the voter has not completed the declaration on the 'Declaration Envelope' to satisfy the returning officer,
  - ▪ the voter is ineligible to vote, or
  - ▪ the returning officer is unable to identify the voter on the roll of voters.
- s) Where a voter returns more than one set of ballot material, only one set of ballot material shall be admitted into the count. The returning officer shall decide which set of ballot material is to be rejected.
- t) The returning officer note shall on the ballot material that it has been rejected and the reason for rejection and set it aside for separate custody.
- u) When the returning officer has determined which declaration envelopes are accepted for the count, the declaration section of each envelope is detached and removed so that the envelope can no longer be identified. Each envelope shall then be opened and the ballot papers extracted to be counted.
- v) The returning officer shall reject as informal a ballot paper that:
- Does not bear the initials or other authenticating mark of the returning officer, and/or
  - Has upon it any mark or writing by which the voter, can be identified, and/or
  - Is not marked substantially in accordance with the instructions included on the ballot paper, and/or
  - The marking is such that the intention of the voter is not clear, and/or
  - Is not returned inside the declaration envelope.
- w) Where, during the ballot, the returning officer is informed by a scrutineer that the scrutineer objects to a returned envelope or a ballot paper being accepted or rejected, the returning officer shall decide whether the returned envelope or ballot paper is to be admitted all rejected and endorse the decision on the envelope or ballot paper. The decision of the returning officer is to be final.

#### *Tied Vote*

- (x) If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows.
  - (A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.
  - (B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.
  - (C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw

*The Returning Officer's Report to the Executive Meeting*

- (y) The Returning Officer will provide a report of the result of the election for the next Executive Meeting and shall submit to that meeting a full report of the ballot indicating the number of ballot papers printed, the number distributed and the number on hand and any other relevant matter.

*Eligible members*

- (z) Eligible members under this Rule shall be the financial members of the Zone.

6) Scrutineers

Any candidate may if they so desire appoint a scrutineer who is a financial member of the Association to represent the candidate at the ballot. The candidate appointing the scrutineer shall notify the Returning Officer in writing of the name of such scrutineer, who:

- a) Shall be entitled to be present throughout the ballot and may query the inclusion or exclusion of any vote in the count, but the Returning Officer shall have final determination of any votes so queried;
- b) Shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election; and
- c) Shall not interfere with or attempt to influence any member at the time such member is casting their vote.

7) Casual Vacancies

- a) Where a casual vacancy, howsoever occurring in the office of
  - (i) Zone Convenor; and

- (ii) Workplace Delegate
  - b) The Executive shall take immediate action to have such vacancy filled by secret postal ballot of all financial members of the Zone provided that:
    - (i) Where the unexpired portion of the term of office in which the vacancy occurs does not exceed one year, the Executive may fill such vacancy by appointment of a financial member of the zone; and
    - (ii) Where the unexpired portion of the term of office in which the vacancy occurs exceeds one year, the Executive may fill such vacancy by appointment of a financial member of the zone until an election is held, provided that no person so appointed shall hold office for a period exceeding three months.
  - c) Such election shall be conducted by the Returning Officer appointed pursuant to this Rule and the Returning Officer so appointed shall determine the dates for the closing of nominations and the closing of the ballot and shall report the result of the ballot to the next following meeting of the Executive.
  - d) Any person so elected shall take office from the date of the declaration of their election and shall hold office until the expiration of the term of the person they replace.
  - e) In all other respects, the election shall be conducted in accordance with the foregoing provisions of this Rule.
- 8) System of Voting
- a) The system of voting in any election conducted pursuant to this Rule shall be the first-past the post system.
  - b) A voter shall record their vote by marking sequential numbers on the ballot paper, commencing with the number 1, in the squares opposite the names of the candidates so as to indicate the order of the voter's preference for each candidate, provided that failure by a voter to mark a preference beyond the number of candidates to be elected shall not invalidate the vote of that voter.
- 9) Absent Voting
- A member who is entitled to vote and who will be absent during the conduct of the ballot may apply for an absent vote by lodging with the Returning Officer prior to the distribution of ballot papers a written request for an absent vote together with an address at which they can receive communications. The Returning Officer shall forward a ballot paper to the address so specified and shall notify the member of the closing date for an absent vote to be lodged.

## 96 – DUAL OFFICES

- 1) In the event of a candidate being elected pursuant to Rule 94 to more than one office as defined in Rule 72 or in the event of a candidate being elected to more than one office

pursuant to Rule 95, that candidate shall be declared elected to the higher or highest of such offices.

- 2) For the purposes of this Rule, the order of precedence shall be:
  - a) In the case of the offices referred to in Rule 72:  
  
President  
  
Vice-President  
  
Secretary/Treasurer  
  
Executive Member
  - b) In the case of the offices referred to in Rule 95:  
  
Zone Convenor  
  
Workplace Delegate
- 3) No member shall simultaneously hold office as an Association Executive Officer, Zone Convenor, or Workplace Delegate provided that in respect of any Zone falling within paragraph (i) of Rule 72 (3), the delegate shall also be the Zone Convenor.

#### **97 - ELECTION OF ASSOCIATION DELEGATES TO FEDERAL COUNCIL**

- 1) The delegates to Federal Council representing the Association shall be the President and, depending on the application of the formula set out in Rule 14 of the Federation Rules, the other Association Executive Officers.
- 2) The order of Association Executive Officers for the purpose of Rule 97(1) shall be:
  - a) the President;
  - b) the Vice President;
  - c) the Secretary/Treasurer
  - d) Executive Members in order of election.

### **CHAPTER 5 – ASSETS AND FINANCE**

#### **98 - ASSOCIATION FUNDS AND PROPERTY**

- 1) The funds and property of the Association shall consist of:
  - a) Any real or personal property of which the Association by these Rules or by any established practice not inconsistent with these Rules, has, or, in the absence of any

limited term lease bailment or arrangement, would have, the right of custody, control, or management;

- b) The amounts of fees, subscriptions and levies payable to the Association pursuant to these Rules; less so much of the amounts as is payable by the Association to the Federal funds as defined;
  - c) Any interest, rents, dividends, or other income derived from the investment or use of such funds and property;
  - d) Any superannuation or long service leave or other funds operated or controlled by the Association as a whole in accordance with these Rules for the benefit of its officers or employees;
  - e) Any sick pay funds, accident pay funds, funeral fund or like funds operated by the Association as a whole in accordance with these Rules for the benefit of its members;
  - f) Any property acquired wholly or mainly by expenditure of the moneys of such funds and property or derived from other assets of such funds and property; and
  - g) The proceeds of any disposal of parts of such funds and property.
- 2) The funds and property of the Association shall be controlled by the Executive which shall have power to expend the funds of the Association for the purposes of carrying out the objects of the Association. For the expenditure of the funds of the Association on the general administration of the Association and for purposes reasonably incidental to the general administration of the Association, the prior authority of the Executive shall not be necessary before cheques are signed or accounts paid.
- 3) Fees, subscriptions and levies shall be paid to the General Manager.
- 4) Prior to the commencement of the financial year, the General Manager shall submit for consideration and determination by the Executive a proposed budget for the forthcoming financial year. The Executive shall be responsible for the allocation of Association funds.
- 5) The financial year of the Association shall end on the 30th Day of June in each year.
- 6) The Executive will develop and approve policies in relation to the expenditure of the Association's funds and management of its property, including policies to ensure fiduciary prudence in these matters.

## **99 – LOANS, GRANTS AND DONATIONS**

Notwithstanding any other provisions of these Rules, the following shall apply in relation to the Association giving any loans, grants and donations:

- 1) No loan, grant or donation of an amount exceeding \$1,000 shall be made unless the Executive is satisfied:
- a) That the making of the loan grant or donation would be in accordance with the other Rules of the Association; and



- b) In the case of 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.
- 2) Notwithstanding Sub Rule (1), the President may authorise the making of a loan, grant or donation of an amount not exceeding \$3,000 to a member of the Association if the loan, grant or donation:
  - a) Is for the purpose of relieving the member or any of the member's dependants from severe financial hardship; and
  - b) Is subject to a condition to the effect that, if the Executive at its next meeting does not approve the loan, grant or donation, it shall be repaid as determined by the Executive.
- 3) In considering whether to approve a loan, grant or donation under Sub Rule (2), the Executive shall have regard to:
  - a) Whether the loan, grant or donation was made under the Rules of the Association; and
  - b) In the case of a loan:
    - (i) The security (if any) given for the repayment of the loan is adequate; and
    - (ii) The arrangements for the repayment of the loan are satisfactory.
- 4) Nothing in this Rule is intended to apply to or prevent the reimbursement of out-of-pocket expenses incurred by persons for the benefit of the Association.

#### **100 – ASSOCIATION AUDITOR**

The Association Auditor shall:

- 1) Be appointed annually by the Executive, and may only be removed by the Executive during their term of appointment by a special resolution of the Executive;
- 2) Perform such functions and duties as are prescribed by the RO Act including the yearly audit of the Association's accounts and such other functions and duties not inconsistent with the RO Act as are required by the Executive;
- 3) Have access to examine if desired all books, papers, deeds, documents and accounts of the Association and be empowered to question any office bearer or officer or employee of the Association with regard to the same and to obtain from any financial or other institution at which the funds of the Association are deposited or invested, such information as they may require; and
- 4) Have power to place before the Executive any suggestion they may desire to make concerning financial affairs of the Association.

### **CHAPTER 6 – ALTERATIONS OF RULES**

## **101 – MAKING OR ALTERATION OF ASSOCIATION RULES**

Subject to Rule 34(b) of the Federation Rules:

- 1) The National Council shall have power to make new Rules or to add to, amend, rescind or otherwise alter these Rules by resolution carried by a majority of members voting at a meeting of the National Council or by postal ballot of the members of the National Council conducted pursuant to these Rules.
- 2) Notwithstanding the provisions of Rule 76 (3) and Rule 79 (5) of these Rules, notice of any proposal for the making of a new Rule or for the adding to, amendment, rescission or other alteration of any of these Rules shall be given in writing to each member of the National Council at least fourteen days prior to the relevant meeting of the National Council or to the commencement of the postal ballot (as the case may be) provided that any such proposal may itself be amended when being considered by the relevant meeting of the National Council.
- 3) The Secretary/Treasurer shall within thirty-five (35) days of the making, addition to, amendment or rescission of these Rules file with the Fair Work Commission full particulars of the alteration in such form and manner that the Commission's representative is able to form an opinion whether or not the alteration can be certified.
- 4) The President shall as soon as practicable, but not later than seven (7) days after filing particulars with the Fair Work Commission pursuant to Sub Rule (3) of this Rule, forward to the Executive a true copy of the said particulars and a copy of all correspondence and documents with respect to the FWC General Manager's dealing with the alteration.

## **CHAPTER 7 – OTHER MATTERS**

### **102 – ARBITRATION PROCEEDINGS AND INDUSTRIAL AGREEMENTS**

Without affecting the operation of Rules 15 and 28 of the Federation Rules:

- 1) The Executive shall have the power and authority to lodge or file any claims, demands, disputes or other matter with the Fair Work Commission or such other court or authority as it may deem necessary in the interests of the Association or any member or group of members.
- 2) The Executive may authorise the Secretary/Treasurer, any Association Officer or an Association employee to lodge any such claim, demand, dispute or other matter and to authorise that Officer or employee, or any other person, to represent the Association in the conduct of proceedings arising from such lodgement.
- 3) The Executive shall have power and authority to negotiate and enter into industrial agreements for the members of the Association. Any such agreement shall be signed either by the President as authorised by the Executive to do so.

### **103 – INSPECTION OF BOOKS & CONSIDERATION OF FINANCIAL REPORTS**

Any financial member of the Association may at a reasonable time during normal office hours inspect the audited financial returns and membership records of the Association upon giving the Secretary/Treasurer seventy-two (72) hours' notice of their wish to do so.

#### **104 – MEMBERS ENGAGED ON ASSOCIATION BUSINESS**

- 1) Should any member of the Association lose any part of their salary or wages or be required to work extra time in consequence of their having been engaged on the business of the Association or their Zone under instructions from the Executive or their Zone Committee as the case may be, the Association shall make good all such loss or shall remunerate the member at their rate of salary for the time occupied by them whilst so engaged. Reasonable out-of-pocket expenses shall be allowed for members engaged on Association or Zone business.
- 2) Any Officer or member transacting business on behalf of the Association or any Zone thereof shall report on such business to the body which appointed them to carry out such business. Any such Officer or member neglecting to make such report may forfeit all claims for any time lost and expenses incurred whilst so engaged in such business.

#### **105 – LEGAL ASSISTANCE**

- 1) The Association may provide legal assistance to a member for any matter directly or indirectly connected with or having an impact or effect upon the performance of duty by the member in the AFP, or for any other matter affecting the member.
- 2) The National Council shall determine, and when necessary amend the scheme for the provision of legal assistance to members, and such scheme as it provides from time to time will be published by the Association on its website.

#### **106 – STANDING ORDERS AND RULES OF DEBATE**

The Executive shall determine from time to time the standing orders and Rules of debate to apply to meetings of the Association. A copy of such standing orders and Rules of debate as determined from time to time shall be supplied free of charge by the Secretary/Treasurer or by a Zone Convenor to any financial member of the Association requesting the same.

#### **107 – GENERAL MANAGER**

- 1) The Executive shall appoint a suitably qualified person (who need not be a member of the Association) to be employed full time as General Manager of the Association, on terms and conditions determined by the Executive, but subject to the subsequent provisions of this Rule.
- 2) The maximum term of appointment to the position of General Manager must not exceed three (3) years, although a further contract or contracts not exceeding such a term may be offered to such an employee if that person's performance, in the opinion of the Executive, justifies such further contract or contracts; however, no one person may be continuously employed by the Association as General Manager, or in any other position of similar character and rank for more than ten years, unless the Executive decides to do so by a special resolution.
- 3) The Executive must retain the right to terminate the employment of the General Manager:
  - a) Summarily for cause; or

- b) On notice without cause, such notice not to exceed three (3) months, or payment in lieu thereof.
- 4) The full list of the duties of the position of General Manager will be determined by the Executive from time to time, but without limiting the duties that may be so assigned shall include the responsibility of managing and administering the National Office and the Association's employees, and may include any of the duties of the Secretary/Treasurer under these Rules (including that of being a signatory to any Association account).
- 5) Provided that:
  - a) Any of the duties of the Secretary/Treasurer delegated to the General Manager shall be performed by the latter under the supervision or at the direction of the Executive for the purpose of carrying out the policies of the Association or the decisions of the Executive;
  - b) Any delegation of any of the duties of the Secretary/Treasurer to the General Manager may be subject to exceptions, either generally or for particular occasions, or may be wholly or partially revoked by resolution of the Executive at any time;
  - c) Responsibility for all acts and omissions done pursuant to any such delegation shall remain that of the Executive or the Secretary/Treasurer, as the case may be; and
  - d) The Secretary/Treasurer shall be and remain the prescribed officer of the Association responsible for the keeping of all registers and the filing and furnishing of documents required by the RO Act.

#### **108 – TRANSITIONAL – ASSOCIATE MEMBERS**

- 1) There shall be no associate member category of membership of the Association as and from the 24 May 2017.
- 2) Any person who was an associate member of the Association as at 24 May 2017 may remain such a member until the Association, pursuant to resolution of the Executive, or the associate member concerned, give notice to the other party of termination or resignation, as the case may be, on not less than twenty eight (28) days' notice.

## ANNEXURE A: PFA – Rule 3. ELIGIBILITY FOR MEMBERSHIP

The Federation shall consist of an unlimited number of persons who are:

- (i) employees, appointees or secondees engaged by the Australian Federal Police, which includes:
  - (a) all persons designated Commercial, Community Operations, Federal Operations, or Operational Support;
  - (b) all persons declared, engaged or appointed as Members, Special Members or Officers of the Australian Federal Police (including Police Officers, Commissioned Officers, Non-Commissioned Officers, Air Security Officers, Protective Service Officers, Special Protective Service Officers, Protection Officers and Commonwealth Law Enforcement Officers).

provided that:

- (c) persons eligible for membership of the CPSU, or persons who were members of the CPSU as at 30 June 2004, shall not be eligible for membership of the Federation unless those persons are Protective Service Officers or Special Protective Service Officers in the Australian Federal Police.
  - 1. For the purpose of this rule, “Australian Federal Police” means the Australian Federal Police constituted under the Australian Federal Police Act 1979 as amended from time to time.
  - 2. For the purpose of this rule “Commercial, Community Operations, Federal Operations, or Operational Support” means all Australian Federal Police work structures, functional areas and roles, and any subsequent work structures, functional areas or roles as amended from time to time.
- (ii) persons appointed to any rank, grade, classification or designation of police officer of any Police Force or Service of any State, Territory or Commonwealth Government of Australia; and/or
- (iii) Persons in Western Australia who are either appointed under the *Police Act 1892 (WA)* and employed by the Commissioner of Police of Western Australia or employed as police recruits provided nothing in this sub rule will render persons employed under the *Public Sector Management Act 1994 (WA)* as eligible for membership of the Union.
- (iv) persons undertaking training (including those persons designated or described as cadets) designed or intended to lead to service in any rank, grade, classification or designation of the positions specified above in 3(i) and 3(ii); and/or

- (v) elected or appointed officers or employees of the Association or any Branch thereof, whether or not employees in the industry
- (vi) except as provided in 3(i), any person engaged as staff members or civilian employees in an administrative, clerical, professional, technical or support capacity, (other than in any rank, grade, classification or designation of police officer, by a Police Force, Service or Department) shall not be eligible for membership of the Association.