

20 January, 2023



Mr Mark Bielecki  
Commissioner  
Registered Organisations Commission  
Email: [regorgs@roc.org.au](mailto:regorgs@roc.org.au)

Dear Commissioner,

Re: E2022/182.

We refer to the decision issued by the Registered Organisations Commission (ROC) in matter E2022/182 (Decision) on 17 January 2022 relating to the conduct of the election of the Union.

The AMWU wishes to raise some concerning issues with the content of the Decision.

Paragraph 3 of the Decision refers to a failure by the AMWU to file its Prescribed Information (PI) before the prescribed day as required by the RO Act and the RO Regulations. The AMWU objects to the implication in the statement of a lack of diligence on our part to adhere to the legislative requirements, and its own rules regarding elections.

On or about 10 September 2022, the AMWU commenced discussions with the officers at the ROC regarding the upcoming elections. On 20 September 2022, we notified the ROC via email that we intended to file the PI and provided information on the possibility of a delay on the outcome of the rule alteration application before the Fair Work Commission (FWC), filed on 27 July 2022. We advised that the rule alteration would have a substantive impact on the elections. This early communication has been the practice in past elections, where communication and collaboration on the PI ensured a smooth election process.

Based on advice provided to the AMWU by officers at the ROC in these discussions in September, the PI was filed with a draft mark. The PI was accompanied with correspondence seeking assistance from the ROC by way of review and feedback. We filed the PI in September so that there would be sufficient time for the Union and the ROC to identify any amendments or corrections that may need to be made to the documentation. The PI, accompanying correspondence and discussions between the AMWU and the officers at the ROC discussed the rule alteration application before the FWC, and the possibility of tight deadlines due to the unpredictability of when a decision on the rule alteration would be issued and what, if any, implications it may have to offices subject to the election. The early filing, almost four months before nominations were due to open was intended to allow sufficient time for the Union and the ROC to factor in any changes that may arise due to the rule alteration application. It also satisfied the requirement in in s189(1) of the Fair Work Regulations Act (FWRO) that the PI be filed at least 2 months before nominations were due to open on 17 January 2023.

The AMWU did not receive any feedback on the prescribed information or any amendments to be made. We are aware that the FWC was also providing updates to the ROC regarding the status of the rule alteration application through November.

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On 22 December 2022, the AMWU contacted the ROC to advise of the prospective rule change referred to above and to discuss the next steps. On that day we were advised to file the PI again, but without the “draft” mark. There was no communication from the ROC that this meant that the PI had been “filed” outside the relevant time frame. We understood this to be a purely clerical matter to assist in the formatting of the Decision.

The AMWU did not mistake the date of 14 January, the day when nominations open, as the date when the PI had to be filed as stated at paragraph 4 of the Decision. As noted above, the PI was submitted well ahead of time for review by the ROC. We refute the conjectural nature of this assertion which has been included in the Decision and the inaccurate intimation that the reasons for the delay are solely those of the AMWU.

Since 22 December, excluding the Christmas break, the AMWU and the officers of the ROC have reviewed and made amendments to the PI, working through the interpretation of the Rules to ensure accuracy, work that ought to have been done in the time since the PI was filed in September. Between 9 and 12 January, the AMWU made corrections to its PI as recommended by the ROC, and filed an amended PI in response to the questions from the ROC.

Despite this remedial work, at the publication of the Decision, the AMWU identified several errors regarding the offices to be balloted. Attached to this letter is a list of the errors identified in the decision that was communicated to the ROC. The AMWU also sought an amended decision as a matter of urgency. Since 17 January to date, we have, several times daily, engaged with officers of the ROC to provide whatever information or guidance for the necessary corrections. Obviously, this has implications to the election timetable. We note that an Amended Decision correcting the substantive matters in the decision is due to be certified today.

Given all these factors, the unnecessary commentary in the Decision as well as the errors identified, we seek that the Decision be reissued without the matters noted above so that the record may be set straight. If the Commission is not minded doing so, we would seek that this correspondence be placed on the ROC website along with the Decision.

Should you wish to discuss this further, please contact Abha Devasia [abha.devasia@amwu.org.au](mailto:abha.devasia@amwu.org.au) or James Rabaud ([james.rabaud@amwu.org.au](mailto:james.rabaud@amwu.org.au)).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Dettmer', with a stylized flourish at the end.

ANDREW DETTMER  
ACTING NATIONAL SECRETARY

In decision	Amendment sought
<b>NSW Branch</b> - Rank and File Delegate to National Conference	<p><i>Delegates to National Conference.</i></p> <p>As noted in correspondence yesterday to this issue this is meant to include rank and file member as well as members of the Union <b>employed</b> by the Union (Rule 5A1.2(d)).</p> <p><b>Rule 6A</b> has specific offices for the (f) (state organisers), (g) delegates to National Conference and (h) delegates to State Conference. Rule 5A1.2 b, c <b>and</b> d have specific additional positions that are set at different caps.</p>
Rank and File Delegates to National Conference from Apprentices or young member	<p><i>Rank and file delegate to National Conference from apprentices or young members under the age of 25</i></p> <p>As expressed at rule 5A1.(e)</p>
Rank and File Delegates to state Conference	<p><i>Delegates to the State Conference</i></p> <p>As with above this will include delegates who are members of the Union employed by the Union. (Rule 5D.1(d) ).</p> <p>Rule 6A and Rule 6C has specific offices for delegates to State Conference including those that are for members employed by the Union.</p>
Rank and File Delegates to State Conference from Apprentices or young member	<p><i>Rank and file delegate to state conference from apprentices or young members under the age of 25</i></p> <p>As expressed at rule 5D1.(f)</p>
Rank and file Apprentice State Councillor or member under age 25	<p><i>Delete</i></p> <p>Rule 5E1.1(i)) sets out that whoever is elected to the State Conference as an apprentice rank and file member or as a member under 25 years will be on the State Council. This is not an elected position.</p>
<b>Victorian Branch</b> - Rank and File Delegate to National Conference	<p><i>Delegates to National Conference.</i></p> <p>As noted above</p>
Rank and File Delegates to National Conference from Apprentices or young member	<p><i>Rank and file delegate to National Conference from apprentices or young members under the age of 25</i></p> <p>As expressed at rule 5A1.(e)</p>

Rank and File Delegates to State Conference from Apprentices or young member	<i>Rank and file delegate to State Conference from apprentices or young members under the age of 25</i>  As expressed at rule 5D1.(f)
Rank and file Apprentice State Councillor or member under age 25	<i>Delete</i>  Rule 5E1.1(i)) sets out that whoever is elected to the State Conference as an apprentice rank and file member or as a member under 25 years will be on the State Council. This is not an elected position.
<b>Queensland Branch-</b> Rank and File Delegate to National Conference	<i>Delegates to National Conference.</i>  As noted above
Rank and File Delegates to National Conference from Apprentices or young member	<i>Rank and file delegate to National Conference from apprentices or young members under the age of 25</i>  As expressed at rule 5A1.(e)
Rank and File Delegates to state Conference	<i>Delegates to the State Conference</i>  As noted above
Rank and File Delegates to State Conference from Apprentices or young member	<i>Rank and file delegate to State Conference from apprentices or young members under the age of 25</i>  As expressed at rule 5D1.(f)
Rank and file Apprentice State Councillor or member under age 25	<i>Delete</i>  Rule 5E1.1(i)) sets out that whoever is elected to the State Conference as an apprentice rank and file member or as a member under 25 years will be on the State Council. This is not an elected position.
<b>South Australia-</b> Rank and File Delegate to National Conference	<i>Delegates to National Conference.</i>  As noted above
Rank and File Delegates to National Conference from Apprentices or young member	<i>Rank and file delegate to National Conference from apprentices or young members under the age of 25</i>  As expressed at rule 5A1.(e)
Rank and File Delegates to state Conference	<i>Delegates to the State Conference</i>  As noted above

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Rank and file Apprentice State Councillor or member under age 25	<i>Delete</i>  Rule 5E1.1(i)) sets out that whoever is elected to the State Conference as an apprentice rank and file member or as a member under 25 years will be on the State Council. This is not an elected position.
<b>WA Branch</b> - Rank and File Delegate to National Conference	<i>Delegates to National Conference.</i>  As noted above
Rank and File Delegates to National Conference from Apprentices or young member	<i>Rank and file delegate to National Conference from apprentices or young members under the age of 25</i>  As expressed at rule 5A1.(e)
Rank and File Delegates to state Conference	<i>Delegates to the State Conference</i>  As noted above
Rank and File Delegates to State Conference from Apprentices or young member	<i>Rank and file delegate to State Conference from apprentices or young members under the age of 25</i>  As expressed at rule 5D1.(f)
Rank and file Apprentice State Councillor or member under age 25	<i>Delete</i>  Rule 5E1.1(i)) sets out that whoever is elected to the State Conference as an apprentice rank and file member or as a member under 25 years will be on the State Council. This is not an elected position.
<b>Tasmanian</b> - Rank and File Delegate to National Conference	<i>Delegates to National Conference.</i>  As noted above
Rank and File Delegates to National Conference from Apprentices or young member	<i>Rank and file delegate to National Conference from apprentices or young members under the age of 25</i>  As expressed at rule 5A1.(e)
Rank and File Delegates to state Conference	<i>Delegates to the State Conference</i>  As noted above

Rank and File Delegates to State Conference from Apprentices or young member	<p><i>Rank and file delegate to State Conference from apprentices or young members under the age of 25</i></p> <p>As expressed at rule 5D1.(f)</p>
Rank and file Apprentice State Councillor or member under age 25	<p><i>Delete</i></p> <p>Rule 5E1.1(i)) sets out that whoever is elected to the State Conference as an apprentice rank and file member or as a member under 25 years will be on the State Council. This is not an elected position.</p>