



## Copy of Signed Decision

**Title of Matter:** Application/Notification by "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU) (188V)  
**Section:** s.189(1) RO Act - Notification of elections for office  
**Subject:** Scheduled Election (Various)  
**Matter Number(s):** E2022/182

A copy of the Delegate of the Commissioner's decision is attached for your information.

The relevant rulebook can be accessed via the Fair Work Commission's [website](#).

**Dear "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU),**

Section 233(2) of the *Fair Work (Registered Organisations) Act 2009* requires details of changes to an organisation's records to be declared to the Registered Organisations Commission. This includes changes to officers as a result of elections. Changes must be declared within 35 days and a template is available from the [website](#).

**Dear Australian Electoral Commissioner via the Electoral Officer,**

Under subsection 189 of the *Fair Work (Registered Organisations) Act 2009*, please arrange for the conduct of the above election.

**Contact:** Steven Murphy of the organisation, as per the prescribed information.

Please send any declaration(s) and post election report to the Registered Organisations Commission at [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

### **Inquiries:**

Any inquiries relating to this matter are to be directed to Blake Stephens through [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

**17 JANUARY 2023**



# DECISION

*Fair Work (Registered Organisations) Act 2009*

s.189—Arrangement for conduct of an election

**"Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)**  
(E2022/182)

MR STEENSON

SYDNEY, 17 JANUARY 2023

*Arrangement for conduct of election.*

[1] On 22 December 2022 the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU) lodged prescribed information, and on 13 January 2023 lodged amended prescribed information, with the Registered Organisations Commission for an election to fill the following offices for a new term:

## **National Office**

National Secretary	(1)
National President	(1)
Assistant National Secretary	(2)
Female Delegates to National Council	(number to be determined following elections conducted at State Conferences)
Delegate to National Council representing the three smaller states	(1)

## **NSW Branch (including ACT)**

State President	(1)
State Vice President	(1)
State Secretary	(1)
Assistant State Secretary	(1)
Rank and File Delegates to National Conference	(number to be determined in accordance with Rules 5A1.2(a) and 5A1.2(d))
Rank and File Women Delegates to National Conference	(number to be determined in accordance with the rules)

Rank and file Delegates to National Conference from Apprentices or Young Members	(1)
Rank and File Delegates to State Conference	(number to be determined in accordance with the rules)
Rank and File Women Delegates to State Conference	(number to be determined in accordance with the rules)
Rank and File Delegates to State Conference from Apprentices or Young Members	(1)
State Organiser	(5)
Female State Councillor	(number to be determined in accordance with the rules)
Employed State Councillor	(number to be determined in accordance with the rules)
Rank and File Delegates to State Administrative Committee	(2)
Rank and File Delegates to National Council	(number to be determined in accordance with the rules)
Additional Employed Delegate to National Council	(1)
Rank and File State Councillor	(number to be determined in accordance with the rules)
Rank and File Apprentice State Councillor or Member under 25 years	(1)
<b>Victorian Branch</b>	
State President	(1)
State Vice President	(1)
State Secretary	(1)
Assistant State Secretary	(2)
Rank and File Delegates to National Conference	(number to be determined in accordance with Rules 5A1.2(a) and 5A1.2(d))
Rank and File Women Delegates to National Conference	(number to be determined in accordance with the rules)
Rank and file Delegates to National Conference from Apprentices or Young Members	(1)
Rank and File Delegates to State Conference	(number to be determined in accordance with the rules)

Rank and File Women Delegates to State Conference	(number to be determined in accordance with the rules)
Rank and File Delegates to State Conference from Apprentices or Young Members	(1)
State Organiser	(16)
Female State Councillor	(number to be determined in accordance with the rules)
Employed State Councillor	(number to be determined in accordance with the rules)
Rank and File Delegates to State Administrative Committee	(2)
Rank and File Delegates to National Council	(number to be determined in accordance with the rules)
Additional Employed Delegate to National Council	(1)
Rank and File State Councillor	(number to be determined in accordance with the rules)
Rank and File Apprentice State Councillor or Member under 25 years	(1)
<b>Queensland Branch</b>	
State President	(1)
State Vice President	(1)
State Secretary	(1)
Assistant State Secretary	(2)
Rank and File Delegates to National Conference	(number to be determined in accordance with Rules 5A1.2(a) and 5A1.2(d))
Rank and File Women Delegates to National Conference	(number to be determined in accordance with the rules)
Rank and file Delegates to National Conference from Apprentices or Young Members	(1)
Rank and File Delegates to State Conference	(number to be determined in accordance with the rules)
Rank and File Women Delegates to State Conference	(number to be determined in accordance with the rules)
Rank and File Delegates to State Conference from Apprentices or Young Members	(1)

Female State Councillor	(number to be determined in accordance with the rules)
Employed State Councillor	(number to be determined in accordance with the rules)

Rank and File Delegates to State Administrative Committee (2)

Rank and File Delegates to National Council (number to be determined in accordance with the rules)

Additional Employed Delegate to National Council (1)

Rank and File State Councillor (number to be determined in accordance with the rules)

Rank and File Apprentice State Councillor or Member under 25 years (1)

### **South Australian Branch**

State President (1)

State Vice President (1)

State Secretary (1)

Assistant State Secretary (1)

Rank and File Delegates to National Conference (number to be determined in accordance with Rules 5A1.2(a) and 5A1.2(d))

Rank and File Women Delegates to National Conference (number to be determined in accordance with the rules)

Rank and file Delegates to National Conference from Apprentices or Young Members (1)

Rank and File Delegates to State Conference (number to be determined in accordance with the rules)

Rank and File Women Delegates to State Conference (number to be determined in accordance with the rules)

Rank and File Delegates to State Conference from Apprentices or Young Members (1)

State Organiser (3)

Female State Councillor (number to be determined in accordance with the rules)

Employed State Councillor (number to be determined in accordance with the rules)

Rank and File Delegates to State Administrative Committee	(2)
Rank and File Delegates to National Council	(number to be determined in accordance with the rules)
Rank and File State Councillor	(number to be determined in accordance with the rules)
Rank and File Apprentice State Councillor or Member under 25 years	(1)

### **Western Australian Branch**

State President	(1)
State Vice President	(1)
State Secretary	(1)
Assistant State Secretary	(1)
Rank and File Delegates to National Conference	(number to be determined in accordance with Rules 5A1.2(a) and 5A1.2(d))
Rank and File Women Delegates to National Conference	(number to be determined in accordance with the rules)
Rank and file Delegates to National Conference from Apprentices or Young Members	(1)
Rank and File Delegates to State Conference	(number to be determined in accordance with the rules)
Rank and File Women Delegates to State Conference	(number to be determined in accordance with the rules)
Rank and File Delegates to State Conference from Apprentices or Young Members	(1)
Female State Councillor	(number to be determined in accordance with the rules)
Employed State Councillor	(number to be determined in accordance with the rules)
Rank and File Delegates to State Administrative Committee	(2)
Rank and File Delegates to National Council	(number to be determined in accordance with the rules)
Rank and File State Councillor	(number to be determined in accordance with the rules)

Rank and File Apprentice State Councillor or Member under 25 years	(1)
--	-----

### **Tasmanian Branch**

State President	(1)
State Vice President	(1)
State Secretary	(1)
Rank and File Delegates to National Conference	(number to be determined in accordance with Rules 5A1.2(a) and 5A1.2(d))
Rank and File Women Delegates to National Conference	(number to be determined in accordance with the rules)
Rank and file Delegates to National Conference from Apprentices or Young Members	(1)
Rank and File Delegates to State Conference	(12)
Rank and File Women Delegates to State Conference	(number to be determined in accordance with the rules)
Rank and File Delegates to State Conference from Apprentices or Young Members	(1)
Female State Councillor	(number to be determined in accordance with the rules)
Employed State Councillor	(1)
Rank and File Delegates to State Administrative Committee	(2)
Rank and File Delegates to National Council	(number to be determined in accordance with the rules)
Rank and File State Councillor	(8)
Rank and File Apprentice State Councillor or Member under 25 years	(1)

**[2]** Section 189(2) of the *Fair Work (Registered Organisations) Act 2009* (**RO Act**) requires that, in relation to elections, organisations must lodge prescribed information for an election by a prescribed day, which regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009* (**RO Regulations**) specifies as two months before the date on which nominations are due to open under an organisation's rules.

**[3]** Under the AMWU rules, the first day on which nominations are due to open for some of the offices is 14 January in the year of election (or the next working day if the 14<sup>th</sup> falls on a weekend). It is clear that the actual lodgement date (22 December 2022) was not two months before the date that the rules specify for the opening of nominations. The organisation therefore

did not lodge the prescribed information before the prescribed day as required by RO Act and RO Regulations.

[4] The Commission has been advised that the organisation had apparently mistaken date for opening of nominations as the date by which the prescribed information needed to be lodged – a difference of two months.

[5] The normal and reasonable expectation is that registered organisations take steps to ensure they comply with the time-frame requirements set out not only in the RO Act but also in instruments related to their own governance which are formulated by the organisations themselves, such as their own rules.

[6] Section 189(2) provides that the Commissioner or his delegate may allow a later date for lodgement. On its own, an apparent misunderstanding of the AMWU's rules would not of itself be considered sufficient basis for allowing a later date for lodgement. However, I note that the AMWU has been engaging with this Commission and with the Fair Work Commission (FWC) over several months on matters related to its upcoming election and rule alterations which, if certified, would affect the election for a particular office.

[7] Specifically the AMWU had lodged a rule alteration with the FWC (R2022/105) which would have had the effect of changing the electorates for offices representing apprentices and young members, by changing the relevant cut-off from 25 years of age to 30 years of age. However, when it became apparent that the rule alteration would not be certified before prescribed information was submitted, the AMWU withdrew the rule alteration and indicated that it would be subsequently re-lodged with the FWC.

[8] In circumstances where the proposed election-related rule alteration was a relevant issue, and where the AMWU had been engaging with this Commission about its upcoming election (albeit with an apparently mistaken understanding of when the prescribed information was due), on this occasion I allow, under section 189(2) of the Act, a later day for lodgement. I encourage the organisation to pay close attention to its election-related rules going forward as failure to lodge prescribed information before the prescribed day can leave an organisation open to civil penalty liability.

[9] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

Printed by authority of the Commonwealth Government Printer

PR352391