

Fair Work (Registered Organisations) Act 2009
s. 159 - Alteration of other rules of organisation

Fair Work (Registered Organisations) Regulations 2009
Reg 126 – Alteration of other rules of organisation

Fair Work (Registered Organisations) Act 2009
s. 245 – Determination of reporting units

Fair Work (Registered Organisations) Regulations 2009
Reg 153 – Application for determination of reporting units

**NOTICE OF PARTICULARS OF RULE ALTERATIONS AND OF APPLICATION FOR
DETERMINATION OF REPORTING UNITS AND DECLARATION OF AUTHORISED OFFICER**

I, Mark Diamond of 5.01, 377-383 Sussex Street, Sydney, in the State of New South Wales, Union Official, give notice of the following matters in relation to the Rules of the Australian Rail, Tram and Bus Industry Union (**ARTBIU**) and in relation to an application by the ARTBIU under s 246(1) of the *Fair Work (Registered Organisations) Act 2009* (**the Act**) for a certificate under s 245 for the Act:

1. I am the National Secretary of the ARTBIU.
2. The ARTBIU is an organisation of employees registered under the Act.
3. I am authorised to give this Notice of Particulars of Alterations to the Rules of the ARTBIU and to make this Declaration as required by Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009* (**the Regulations**).
4. I am also authorised to lodge this application by the ARTBIU under s 246(1) of the Act and as required by Regulation 153 of the Regulations for a certificate under s 245 of the Act.
5. The ARTBIU has made alterations to its Rules. Particulars of the alterations the subject of this notification are annexed to this Declaration and marked **Annexure MD1, Annexure MD1A and Annexure MD2**.
6. I declare that the alterations particularised in Annexure MD1 (as amended by Annexure MD1A) and Annexure MD2 were to the best of my knowledge made in accordance with the Rules of the ARTBIU. The actions taken under the Rules to make the alterations included those set out below.

Tasmanian Branch Executive and Branch Council

7. On 19 September 2023 the Tasmanian Branch Secretary and the Tasmanian Branch President jointly determined pursuant to Rule 145(2) to convene an ordinary meeting of the Branch Executive online. That same date, a notice was sent to members of the

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Branch Executive which included an agenda item for the calling of a meeting of the Branch Council to consider rule changes affecting the Tasmanian Branch.

8. On 27 September 2023 at a quorate meeting of the Branch Executive, it was resolved that a meeting of the Branch Council should be held online on 28 October 2023
9. On 27 September 2023, the Tasmanian Branch Secretary pursuant to Rule 42(6) and Rule 87(5) sent a notice of the meeting of Branch Council on 28 October 2023 to each member of the Branch Council which included an agenda item to consider rule changes affecting the Tasmanian Branch and attached the current RTBU Rules and the proposed Tasmanian Branch Rule Alterations (**Annexure MD1**).
10. On 28 October 2023, a quorate meeting of the Branch Council was held and at that meeting the following resolutions were passed pursuant to Rule 87(5):
 - a resolution that the meeting should be held online pursuant to Rule 42(10)
 - a resolution to amend the Tasmanian Branch Rule Alterations (**Annexure MD1A**)
 - a resolution to pass the Tasmanian Branch Rule Alterations as amended.

Tasmanian Rail Division

11. On 29 September 2023 the Tasmanian Branch Rail Divisional President and the Tasmanian Branch Rail Divisional Secretary jointly determined pursuant to Rule 146(3) to hold a meeting of the Branch Divisional Committee for the Branch Rail Division. On that same date, pursuant to Rule 58(7) the Branch Rail Divisional Secretary sent a notice of meeting to each member of the Branch Rail Divisional Committee with an agenda item about proposed Tasmanian Branch rule alterations along with a copy of the current RTBU Rules and the proposed Tasmanian Branch Rule Alterations (**Annexure MD1**).
12. On 28 October 2023, a quorate meeting of the Branch Rail Divisional Committee was held and at that meeting the following resolutions were passed:
 - a resolution that the meeting should be held online pursuant to Rule 58(11)
 - a resolution noting the amendment to the Tasmanian Branch Rule Alterations (**Annexure MD1A**)
 - a resolution in favour of the Tasmanian Branch Rule Alterations as amended.

Tasmanian Tram & Bus Division

13. On 9 October 2023 the Tasmanian Branch Tram & Bus Divisional President and the Tasmanian Branch Tram & Bus Divisional Secretary jointly determined pursuant to Rule 146(3) to hold a meeting of the Branch Divisional Committee for the Branch Tram & Bus Division. On that same date, pursuant to Rule 58(7) the Branch Tram & Bus Divisional Secretary sent a notice of meeting to each member of the Branch Tram & Bus Divisional Committee with an agenda item about proposed Tasmanian Branch rule alterations along with a copy of the current RTBU Rules and the proposed Tasmanian Branch Rule Alterations (**Annexure MD1**).

14. On 28 October 2023, a quorate meeting of the Branch Tram & Bus Divisional Committee was held and at that meeting the following resolutions were passed:
- a resolution that the meeting should be held online pursuant to Rule 58(11)
 - a resolution noting the amendment to the Tasmanian Branch Rule Alterations (Annexure **MD1A**)
 - a resolution in favour of the Tasmanian Branch Rule Alterations as amended.

National Executive and National Council

15. On 7 September 2023 the National Secretary and the National President jointly determined pursuant to Rule 29(3) to convene a Special Meeting of the National Executive online. On that same date, a notice was sent to each member of the National Executive pursuant to Rule 29(5) which included an agenda item for the calling of a Special Meeting of the National Council to consider rule changes, including those affecting the Tasmanian Branch.
16. On 26 September 2023 a quorate Special Meeting of the National Executive resolved that a special meeting of the National Council should be held online on 31 October 2023.
17. On 27 September 2023, the National Secretary pursuant to Rule 28(6) sent a notice for a Special Meeting of National Council to each member of the National Council which included an agenda item to consider various rule changes and attached the current RTBU Rules, the proposed Tasmanian Branch Rule Alterations (**Annexure MD1**) and General Rule Changes (**Annexure MD2**).
18. On 31 October 2023, a quorate Special Meeting of the National Council was held and at that meeting the following resolutions were passed:
- a resolution that it should be held online pursuant to Rule 28(10)
 - a resolution to ratify pursuant to Rule 87(6) the Tasmanian Branch Rule Alterations (Annexure **MD1**) as amended by Annexure **MD1A**
 - a resolution to pass the General Rule Changes (**Annexure MD2**).

Proposed alternative division into reporting units

19. The ARTBIU is an organisation divided into six branches pursuant to Rule 6(3), one of which is the Tasmanian Branch. By virtue of s 242(3) of the Act, each of the branches is a reporting unit. By virtue of s 242(5) of the Act, the National Office is also a reporting unit.
20. The proposed alternative division into reporting units is that on and from 1 January 2024, the National Office and the Tasmanian Branch form one reporting unit, to be named the National Office Reporting Unit (**NORU**). The remaining existing reporting units would remain the same as they are at present.

21. The proposed alternative division into reporting units will be achieved by alterations to the Rules, including Rule 3 (to add a definition of "NORU") and the insertion of a new rule 149A into the Part of the Rules which applies specifically to the Tasmanian Branch. The relevant rule changes are set out in the Tasmanian Branch Rule Alterations (**Annexure MD1** as amended by **Annexure MD1A**).
22. As set out above, resolutions in favour of the proposed alternative division into reporting units have been carried by the National Council, the Tasmanian Branch Council and the Tasmanian Rail Branch Divisional Committee and the Tasmanian Tram and Bus Branch Divisional Committee who would be affected by the proposed alternative division.
23. The alterations approved by the resolutions referred to in paragraph 22 above also specifically address how the level of financial information available to members of the Tasmanian Branch will be adequate and relevant to them, particular by the proposed new Rule 149A.

Reasons supporting the proposed alternative division into reporting units

24. The Tasmanian Branch of the ARTBIU is not financially viable as a stand-alone financial reporting unit as its income, with a mere 260 members, is less than its expenditure. At present, there is no identifiable way in the foreseeable future that this situation will change and therefore the National Office and the Tasmanian Branch wish to merge their finances into a National Office Reporting Unit (NORU).
25. The financial position of the Tasmanian Branch is well articulated by the current Tasmanian Branch Secretary, Ric Bean, in his correspondence dated 31 October 2023 (**Annexure MD3**). That letter provides details on the need to merge financial reporting units with the National Office in the immediate future, as well as the need for the future restructure of the Tasmanian Branch's governing bodies at the next election.
26. On the advice of the FWC and in accordance with legislation, I am aware that Tasmanian governing bodies and Tasmanian members will need to have access to financial information pertaining to the Tasmanian Branch. As such, in preparing budgeting for 2024 and should the rule changes be certified by the FWC General Manager before that date, I as National Secretary am proposing the following changes:
 - a. The National Office Reporting Unit (NORU) will have two cost centres:
 - i. One for National Office; and
 - ii. One for the Tasmanian Branch

which will roll up into a consolidated NORU.
 - b. The Tasmanian Branch's governing bodies and membership will be provided budgeting and then financial reporting on the Tasmanian Branch cost centre so they

may see all income and expenditure which pertains to the Tasmanian Branch. Financial reporting will be provided before each Branch Executive or when otherwise requested.

- c. The financial governance of the Tasmanian Branch will otherwise sit at a national level. The national meetings held are as follows:
 - i. One National Council every 2 years
 - ii. Three National Executives every 2 years
 - iii. Four National Audit and Compliance Committees each year.

Therefore, in a calendar year, there will be at least six ordinary meetings which will review the NORU finances (four National Audit and Compliance Committee meetings and two meetings of the National Executive or National Council).

- 27. In accordance with Regulations 126(1)(b) and 153(2) of the Regulations, I propose to publish a copy of this Notice on the ARTBIU website with a notice that it has been lodged with the Fair Work Commission.
- 28. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.



Mark Diamond
National Secretary
ARTBIU
15 November 2021

Annexure MD1 - Tasmanian Branch Rule Alterations

1. Insert a new definition in rule 3 as follows:
"NORU" - means on and from 1 January 2024 the National Office Reporting Unit, comprising the Union's National Office together with the Tasmanian Branch and is that part of the Union that is the subject of a certificate under s245 of the RO Act and is not a branch referred to in Rule 6 other than the Tasmanian Branch
2. In rule 6, insert at the beginning of sub-rule (13): "Except in the case of the Tasmanian Branch on and from 1 January 2024,"
3. In rule 11, insert at the end of sub-rule (1): "except in the case of the Tasmanian Branch on and from 1 January 2024 whereupon all monies due shall be paid to the National Secretary".
4. In rule 21, insert after sub-rule (2)(iii) a new sub-rule (2)(iii)(a): "all entrance fees, fines and levies paid to the National Secretary by members of the Tasmanian Branch on and from 1 January 2024".
5. In rule 21, insert after sub-rule (2)(viii) a new sub-rule (2)(ix): "any real property, other property, other assets of any kind and/or funds which comprised the Tasmanian Branch Fund immediately before 1 January 2024;"
6. Insert in rule 21 a new sub rule (17):
"Notwithstanding sub rule 21(1), on and from 1 January 2024 there shall be no Tasmanian Branch Fund and/or Tasmanian Branch Divisional Funds and sub rules (4)- (15) hereof shall not apply to the Tasmanian Branch".
7. Insert in rule 23 a new sub rule (12):
"For the avoidance of doubt, on and from 1 January 2024 this Rule shall not apply to the Tasmanian Branch".
8. Insert in rule 25 a new sub-rule (5) as follows:
"This Rule shall not apply to the Tasmanian Branch on and from 1 January 2024".
9. Insert in rule 27 a sentence at the end as follows:
"Provided that this Rule shall not apply to the Tasmanian Branch on and from 1 January 2024".
10. Insert after rule 149 a new rule as follows:

Rule 149A – Reporting Unit

- (1) On and from 1 January 2024, the provisions of this Rule shall apply notwithstanding anything elsewhere contained in these Rules.
- (2) On and from 1 January 2024, the Branch will cease to be a reporting unit for the purposes of the RO Act and the reports required to be made from time to time in respect of the financial affairs of the Branch will form part of and be integrated into the NORU report.
- (3) On and from 1 January 2024, the National Secretary and the National Executive will assume the powers, duties and functions related to the exercise of the financial responsibility and management of the Branch.
- (4) On and from 1 January 2024, the NORU will take full administrative responsibility for financial tasks for the Branch. This includes:
 - (i) The Branch will no longer maintain a Branch Balance Sheet. Balance sheet items including cash and bank and property will be transferred to the NORU Balance sheet;
 - (ii) The NORU will take responsibility for Branch financial transactions and will include the incomes and expenditures of the Branch on the NORU Income and Expenditure Statement as a cost centre;
 - (iii) The Branch will no longer operate a separate bank account;

- (iv) The NORU will assume responsibility for the lodgement of BAS and PAYG payroll tax statements and payments for the Branch;
 - (v) In all transactions, the Branch will use the NORU Australia Business Number (ABN);
 - (vi) The NORU will meet all Branch payroll obligations, including the issuing of payment summaries, pay slips and the payment of superannuation contributions;
 - (vii) Every 6 months, the NORU will provide the Branch Executive with a Statement of Income and Expenditure for the Branch; and
 - (viii) Every 6 months the NORU will advise the Branch of staff leave entitlements.
 - (ix) In addition to the requirements of the NORU in accordance with the RO Act, the National Secretary will cause a financial report for the financial year ending on 31 December each year to be provided to the members of the Branch outlining income and expenditure of the NORU on behalf of the Branch, within five months of the end of the financial year.
11. As and from the next quadrennial election after this rule change comes into effect, the whole of "Part XIII – Tasmanian Branch: Specific Provisions" of the rules is deleted except for Rule 149A and in lieu thereof a new "Part XIII – Tasmanian Branch: Specific Provisions" is inserted as follows:

Part XIII – Tasmanian Branch: Specific Provisions

138 – APPLICATION

This Part applies specifically to the Tasmanian Branch of the Australian Rail, Tram and Bus Industry Union. Subject to Rule 149, the provisions of this Part take precedence over any contrary provisions in Part VI of these Rules other than Rules 45 and 46.

139 – DEFINITIONS

The following specific definitions shall apply in relation to this Part:

"Branch" means the Australian Rail, Tram and Bus Industry Union, Tasmanian Branch.

"Buses Burnie" means the Region in and around Burnie where members in the bus industry work.

"Buses Hobart" means the Region in and around Hobart where members in the bus industry work.

"Buses Launceston" means the Region in and around Launceston where members in the bus industry work.

"Rail North" means the Region in and around Launceston where members in the rail industry work.

"Rail South" means the Region in and around Brighton where members in the rail industry work.

"Rail West/North West" means the Region in and around Devonport, Burnie, Queenstown and Strahan where members in the rail industry work.

140 – NAME OF BRANCH

The name of the Branch shall be:

"Australian Rail, Tram and Bus Industry Union, Tasmanian Branch."

141 – BRANCH OFFICE

The Branch office shall be located at Suite 5/113 Main Road, Moonah, Tasmania or at such other place as determined by the National Executive.

142 – BRANCH MEMBERSHIP

The Branch shall comprise all members of the Union whose usual place of work is located within the boundaries of the Tasmanian Branch as determined from time to time by the National Council pursuant to Rule 6.

143 – BRANCH MEMBERSHIP

- (1) The Branch shall be principally organised on a Branch, Branch Divisional and Branch Regional basis.
- (2) The Branch Divisions shall be as follows:-

Rail
Tram and Bus

with the scope of each Branch Division being as defined in Rule 6 of these Rules but with the Branch Rail Division combining the Infrastructure Division, the Fleet Manufacture, Overhaul, Maintenance and Service Division, the Administrative, Supervisory, Technical and Professional Division, the Locomotive Division and the Rail Operations Division.

- (3) The Branch Regions shall be as follows:
 - a. Buses Burnie;
 - b. Buses Hobart;
 - c. Buses Launceston;
 - d. Rail North;
 - e. Rail South; and
 - f. Rail West/North West.
- (4) Each Branch Region shall comprise of all members of the Branch whose usual place of work is located within the Branch Region and whose work function falls within the relevant Branch Division.

144 – COMPOSITION AND ORDINARY MEETINGS OF THE BRANCH EXECUTIVE

- (1) The Branch Executive shall be the highest deliberative body of the Branch. There shall be no Branch Council of the Branch. In the case of the Branch, any reference to Branch Council in the rules shall be read as a reference to Branch Executive. There shall be no Branch Divisional Committees of the Branch.
- (2) The Branch Executive shall comprise the Branch President, the Branch Secretary and one Regional Executive Member from each Region provided that there will be two Regional Executive Members from the Buses Hobart Region.
- (3) The Branch Executive shall meet in ordinary session every 6 months as determined by the Branch Secretary and the Branch president jointly or as determined by the National Secretary.
- (4) A special meeting of the Branch Executive may be convened by the Branch Secretary and the Branch President jointly or as determined by the National Secretary.

- (5) The Branch Regional Executive Members shall be elected by the members of the relevant Branch Region.

Rule 145 – Deleted

Rule 146 – Deleted

Rule 147 – Branch Offices

- (1) The Branch Offices are:

Branch President

Branch Secretary

Branch Regional Executive Members

- (2) All Branch Offices shall be unpaid positions.

Rule 148 – PROXIES

- (1) A proxy for the Branch President or Branch Secretary shall be appointed by the Branch Executive.
- (2) A proxy for a Branch Regional Executive Member shall be appointed by the Branch Executive provided that the proxy shall come from the same Region as the Branch Regional Executive Member.

Rule 149 – Deleted

Annexure MD1A – Resolution to amend the Tasmanian Branch Rule Alterations

This meeting has been advised by the National Secretary about his communications with the Fair Work Commission pertaining to the proposed Tasmanian Rule Changes.

This meeting on the advice of the National Secretary who has sought further legal advice, resolves that the following amendment should be made to the proposed Tasmanian Branch Rule Alterations which addresses the identified concerns:

That the introduction to point 11 of the proposed Tasmanian Branch Rule Alterations which reads:

“11. As and from the next quadrennial election after this rule change comes into effect, the whole of “Part XIII – Tasmanian Branch: Specific Provisions” of the rules is deleted except for Rule 149A and in lieu thereof a new “Part XIII – Tasmanian Branch: Specific Provisions” is inserted as follows:

Part XIII – Tasmanian Branch: Specific Provisions”

be replaced with the following:

“11. Insert after Rule 149A a new rule as follows:

Rule 149B – Transitional: Tasmanian Branch

As and from the calling for nominations in the next quadrennial election after this rule is approved, the whole of “Part XIII – Tasmanian Branch: Specific Provisions” of the rules is deleted except for Rule 149A and in lieu thereof a new “Part XIII A – Tasmanian Branch: Specific Provisions” as set out below shall take effect, provided any person then holding office in the Tasmanian Branch shall continue to hold that office until the results of the aforementioned election are declared:

Part XIII A – Tasmanian Branch: Specific Provisions”

Annexure MD2 – General Rule Changes

The mark-ups in Changes 1 to 4 below are the proposed changes to the RTBU Rules:

CHANGE 1

2 - REGISTERED OFFICE

The Registered Office which shall be the National Office of the Union shall be at Suite 210, 5.01, 377-383 Sussex Street, Sydney, New South Wales Trades Hall, 4-10 Goulburn Street, Sydney, New South Wales or at such other place as the National Council may from time to time determine.

CHANGE 2

Rule 69(7)

If the charge is to be proceeded with, the person charged shall be called upon to attend before the National Executive or the Branch Executive, as the case may be, at a stated time and date and place (which may be online) to show cause why he/she should not be disciplined. The person charged shall be given at least twenty-one days' notice of the time, date and place format (which may be online) of the hearing which may be held in person or via telephone conference or video conference. At least fourteen days before the hearing, the person laying the charge shall provide the Office Bearer with particulars of the charge reasonably sufficient to enable him/her to know the nature of the allegations made against him/her and the circumstances alleged to justify disciplinary action.

Rule 69(9)

At the hearing, the person laying the charge and the person charged:

- (i) shall be heard in person if he/she or they so desire;
- (ii) may submit a written statement;
- (iii) may call witnesses;
- (iv) may examine and cross-examine witnesses;
- (v) may present evidence relevant to the charge.

Rule 69(9A)

If the person charged is absent from the hearing for any reason without satisfactory explanation and/or chooses not to provide evidence or respond for any reason, the remainder of the process under this Rule 69 may be followed as if they the person had done so.

Rule 69(10)

No person shall be present at the hearing of the charge other than the person charged, the person laying the charge, the members of the National Executive or the Branch Executive, as the case may be, and any witnesses called, provided that any witnesses called may only be present at the hearing while such witness's evidence is being taken. No person other than members of the National Executive or the Branch Executive, as the case may be, shall be present or participate in a telephone conference or video conference after the hearing of the charge while the Executive is deliberating upon its decision in relation to that charge.

CHANGE 3

Removal of Part XV – West Australian Branch (Title plus Rule 172 to 186A)

Removal of Part XVI – West Australian PTA Branch (Title plus 187 to 199)

Rule 6(9) remove and replace with:

Rule (9) – The Western Australia Branch shall comprise all members whose usual place of work is located within the State of Western Australia.

CHANGE 4

Rule 28(3)

...number of Delegates to which the members of a National Division within a Branch are entitled, shall be determined on the basis of the number of financial members of the National Division within the Branch at the end of the March quarter immediately preceding the date for the opening of nominations for the election of Delegates.

Rule 98(2)

...which the Branch Tram & Bus Division or a Branch Divisional District is entitled, shall be determined on the basis of the number of financial members within the Branch Division or the Branch Divisional District, as the case may be, at the end of the March quarter immediately preceding the date for the opening of nominations for the election of Delegates.

Rule 144(2)

Each Branch Division shall be entitled to one Delegate to the Branch Council for each one hundred members or part thereof. The number of Delegates to which a Branch Division is entitled, shall be determined on the basis of the number of financial members within the Branch Division at the end of the March quarter immediately preceding the date for the opening of nominations for the election of Delegates.

Rule 157(2)

...the number of Delegates shall be determined on the basis of the number of financial members within the Branch Division at the end of the March quarter immediately preceding the date for the opening of nominations for the election of Delegates.

Rule 181(4)

...the number of financial members of the Branch shall be determined at the end of the March quarter immediately preceding the date for the opening of nominations for each biennial election.

Annexure MD3 - Letter of Tasmanian Branch Secretary



RTBU
TASMANIA

Murray Furlong
General Manager
Fair Work Commission
Level 10, Terrace Tower, 80 William St,
East Sydney, NSW. 2011

31 October 2023

Dear Mr Furlong

I am the current Branch Secretary of the Tasmanian Branch of the Australian Rail, Tram and Bus Industry Union.

For the financial year ending 31 December 2022, the expenditure of the branch was \$176,111 and its income was \$143,510. Please find a link to the Tasmanian Branch's 2022 financials:

https://assets.nationbuilder.com/rbtu/pages/99/attachments/original/1683672727/RTBU_Tas_Branch_Financial_Statements_2022.pdf?1683672727

There have been no significant changes since that time and our membership numbers remain stable at about 260 members.

To my knowledge there is no prospect in the near future of ensuring that the Tasmanian Branch is financially viable in and of itself and therefore, the Tasmanian Branch wishes to merge its financial reporting unit with the National Office of the RTBU. Should this not occur, the Tasmanian Branch will run out of money and be unable to properly represent the limited membership it has.

The National Office of the RTBU is already providing people resources to assist in managing the industrial activities of the Tasmanian Branch and therefore merging financial reporting units would be a natural fit for the finances of the Tasmanian Branch.

Further, the rule changes that will be filed with the Fair Work Commission to which this letter pertains, not only merge the branch's financial reporting unit with National Office effective 1 January 2024, but restructure the branch effective at the next General Election to a structure which supports the Branch's size and composition.

Rail, Tram & Bus Union Tasmania *The Power of Union*

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Phone: 03 6228 6188 **Email:** tasadmin@rtbu.org.au

The rule changes have passed through the relevant internal processes and, to my knowledge, all members are in support of the proposed changes.

Should you wish to discuss, please call me direct – 0418 596 600

Regards

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

Ric Bean
Tasmanian Branch Secretary

