



DECISION

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

**Australian Education Union - New South Wales Teachers Federation
(NSWTF) Branch**
(R2019/90)

MURRAY FURLONG

MELBOURNE, 11 SEPTEMBER 2019

Alteration of other rules of organisation.

[1] On 12 July 2019 the Australian Education Union – New South Wales Teachers Federation Branch (the Branch) lodged with the Fair Work Commission (the Commission) a notice and declaration setting out particulars of alterations to its Federal Branch Rules.

[2] The particulars set out alterations to Federal Branch Rule:

- 7 – Composition of Branch Conference
- 11 – Composition of Branch Council
- 37 – Election of Additional Representatives to Branch Conference

[3] On the information contained in the notice, I am satisfied the alterations have been made under the rules of the organisation.

[4] The alteration to Federal Branch Rule 7 provides for the use of a formula in calculating an Association’s entitlement to Branch Conference Delegate(s). In addition, it simplifies the language used to describe elected bodies.

[5] The alteration to Federal Branch Rule 11, again, provides for the use of a formula in calculating an association or a group of association’s entitlement to Branch Council Representative(s).

[6] The alteration to Federal Branch Rule 37 changes the title of the rule to “Election of Branch Conference Delegates”. Most importantly, the proposed rule renames “representatives” to “Conference Delegates”. Finally the proposed rule removes sub-rules that were left obsolete, following the Branch’s earlier rule alterations.

Regulation 126(1)(b)

[7] Regulation 126(1)(b) of the *Fair Work (Registered Organisations) Regulations 2009* (the Regulations) requires the Branch to publish a notice on its web site, within 35 days of the alterations being made, that the alterations have been lodged with the Commission. The particulars of alterations lodged with the Commission made no reference to any such notice.

[8] On 29 August 2019 staff of the Commission emailed the Branch to determine whether the notice had been published. Later that day, the Branch confirmed – via email – that the notice had not been uploaded to its web site. The email also confirmed that the notice had now been published. The notice was therefore published on the Branch’s web site on 29 August 2019.

[9] The following day, the Branch provided a written submission to the Commission requesting an extension of time in relation to the notice.

[10] The Branch submits that the notice was not placed on the web site due to “administrative oversight”. The Branch also submits that it has “reviewed [its] processes to ensure that this step is not missed [in the future]”.

[11] Regulation 126(1) provides me with the discretion to allow any additional period for the publication of the notice. The granting of an additional period is not as of right. It is incumbent on registered organisations to comply with the obligations set down in the Act. I note that the Branch made a bona fide attempt to remedy the situation and complied with the Commission’s instructions in a timely manner. In addition, I note that the Branch does not have a history of failing to comply with the Regulation. I therefore allow an additional period, until 29 August 2019, for the notice requirement.

[12] On 30 August 2019, John Dixon, Secretary of the Branch, gave consent, under subsection 159(2) of the *Fair Work (Registered Organisations) Act 2009*, for the Delegate to make various amendments to the alterations for the purpose of correcting typographical, clerical or formal errors. Accordingly the following corrections have been made:

- In proposed rule 7(5): (6) has been changed to (c); and
- In proposed rule 7(5)(c): 7(2) has been inserted after *Rule*.

[13] In my opinion, the alterations comply with and are not contrary to the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, modern awards and enterprise agreements, and are not otherwise contrary to law. I certify accordingly under subsection 159(1) of the *Fair Work (Registered Organisations) Act 2009*.



DELEGATE OF THE GENERAL MANAGER

Printed by authority of the Commonwealth Government Printer

< PR711904 >