

Rules of a *State Industrial Organisation*
registered under the *Industrial Relations Act 1996*

Health Services Union NSW

as at 9 September 2015

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1. NAME

The name of the Union hereafter referred to as the “Union” shall be the “Health Services Union NSW”.

2. OBJECTS

The objects of the Union shall be to endeavour by all lawful means:

- (i) To improve and maintain the interest of the members in all matters relating to their employment, including bona fide compensation claims, subject to the Union Council's consideration.
- (ii) To provide legal advice and assistance to members in matters connected with their employment.
- (iii) To establish 30 hours as the maximum weeks' labour and to secure improved rates of wages and conditions of employment.
- (iv) To assist financially or by other lawful means the work or objects of any other association or trade union having objects similar to those of the Union.
- (v) To inquire into and secure fair and reasonable adjustments on behalf of members in cases of any charge, suspension, reduction in rank, position, grade or pay, dismissal, reclassification or retirement.
- (vi) To secure the establishment of an independent Appeals Board and to secure representation of the members on administration boards and committees.
- (vii) To effect the nationalisation of the Ambulance Service.
- (viii) To secure equal pay for sexes.
- (ix) To secure preference to unionists.
- (x) To raise a fund by contributions, fines and levies, for the purpose of advancing the best interest of its members.
- (xi) To regulate and protect the conditions of labour and relations between workers and employers, and between worker and workers.
- (xii) To uphold the rights of combination of labour, and to improve, protect and foster the best interest of the members.
- (xiii) To take all necessary steps for the protection and safety of the members in the course of their occupation.
- (xiv) To take the necessary steps and actions under any Industrial Arbitration Act or other Act, 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 their employment.

- (xv) To promote industrial peace by all amicable means, such as conciliation, arbitration, or the establishment of permanent boards, to assist in their settlement by just and equitable methods.
- (xvi) To urge the various Governments and other employers to establish Superannuation Funds for all employees.
- (xvii) To affiliate or amalgamate with or absorb any organisation which has objects similar to the objects of the Union.
- (xviii) To establish Sub-Branches throughout New South Wales.
- (xix) To foster co-operation and harmonious relations between its members in the various establishments in New South Wales.
- (xx) To establish a fund or funds for long service leave and superannuation for full-time officers and employees in the Union.
- (xxi) To make gifts for bona fide charitable purposes and to subscribe to testimonials or otherwise recognise services rendered in the Union as approved by Union Council.
- (xxii) To establish harmonious and co-operative relations with all legitimate managements and employee organisations and with government and statutory authorities in the hospital, institutional, industrial and social service field.
- (xxiii) To encourage a high standard of professional ethics and integrity amongst all members in the Union.
- (xxiv) To establish scholarships, bursaries, courses of study, and training for the vocational advancement of all members in the Union.
- (xxv) To purchase, take on lease or in exchange, hire and otherwise acquire any real property and in particular any land, buildings or easements for any purposes connected with the conduct of the Union.
- (xxvi) To borrow or raise or secure the payment of money in such manner as the Union may think fit, to secure the same, or the repayment or performance of any debit liability, contract guarantee or other engagement incurred or to be entered into by the Union in any way, and to redeem or pay off such securities.
- (xxvii) 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 Union.
- (xxviii) To assist financially or by other lawful means the work or objects of any industrial and/or political organisation having objects similar to those of the Union, subject to the Union Council's consideration.
- (xxix) To act as an organisation of employees.



- (xxx) To do all such things as the Union may from time to time deem incidental or conducive to the attainment of the above objects or any one of them.
- (xxxi) To act as a bargaining agent or in a similar capacity to represent the interests of persons in relation to industrial and related purposes, including but not limited to negotiating enterprise agreements, which Union Council agrees to so represent and on such terms as determined by Union Council, notwithstanding the fact that the persons concerned may not be members of the Union.
- (xxxii) To operate as a not-for-profit entity.

3. **DEFINITIONS**

- (a) “board” means a group of persons who supervise a corporation, organisation, association or other like body including a Board of Directors.
- (b) “disclosure period” means the financial year of the Union as defined by Rule 4.
- (c) “declared person or body” means:
 - (i) an officer of the Union who has disclosed a material personal interest under Rule 40(a) and (b); and
 - (ii) the interest relates to, or is in, the person or body; and
 - (iii) the officer has not notified the Union that the officer no longer has the interest.
- (d) “financial duties” includes duties that relate to the financial management of the Union.
- (e) “financial year” means the financial year of the Union as defined by Rule 4.
- (f) “General Manager” means the General Manager of Fair Work Australia.
- (g) “non-cash benefit” means property or services in any form other than money, but does not include a computer, mobile phone or other electronic device that is used only or mainly for work purposes.
- (h) “peak council” means a national or State council or federation that is effectively representative of a significant



- number of organisations (within the ordinary meaning of the term) representing employers or employees in a range of industries.
- (i) “office” has the same meaning as defined by Section 9 of the *Fair Work (Registered Organisations) Act 2009* (Cth) and/or the Dictionary to the *Industrial Relations Act 1996* (NSW).
- (j) “related party” has the same meaning as defined by Section 9B of the *Fair Work (Registered Organisations) Act 2009* (Cth).
- (k) “relative” in relation to a person, means the spouse, parent or remoter lineal ancestor, child or remoter issue, or brother or sister of the person.
- (l) “relevant remuneration” in relation to an officer of the Union for a disclosure period is the sum of the following:
- (i) Any remuneration disclosed to the Union by the officer under Rules 40(a) and (b) during the disclosure period;
 - (ii) any remuneration paid during the disclosure period, to the officer of the Union.
- (m) “relevant non-cash benefits” in relation to an officer of the Union for a disclosure period means the non-cash benefits provided to the officer, at any time during the disclosure period, in connection with the performance of the officer’s duties as an officer, by the Union or by a related party of the Union.

4. APPLICATION OF FUNDS

The funds of the Union shall be used only for carrying out the objects as set out in Rule 2 and in necessary expenses of management.

The funds and property of the Union shall consist of:-

- (i) any property of which the Union, 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;
- (ii) the amounts of entrance fees, contributions, fees, and levies collected by the Union in accordance with these Rules;

- (iii) any interest, rent, dividends, or other income derived from the investment of use of such funds;
- (iv) any long service or other fund operated or controlled in accordance with these Rules relating to the Union as a whole, for the benefit of its Officers or employees;
- (v) any sick pay fund, accident pay fund, funeral pay fund or like fund operated in accordance with these Rules relating to the Union as a whole, for the benefit of its members;
- (vi) any property acquired wholly or mainly by expenditure of the moneys of such funds or property, or derived from other assets of such funds and property;
- (vii) the proceeds of any disposal of parts of such funds.

The surplus funds or other property of the Union shall be vested in the name of the Union and shall be invested from time to time in such manner as may be determined by the Union Council.

All cheques and written authorisations for the transfer and/or disbursement of funds of the Union shall be signed by the Assistant Secretary-Treasurer (or in his/her absence the Secretary) together with any two (2) members of the Union Committee.

A loan, grant or donation shall not be made by the Union unless the Union Council:

- (a) has satisfied itself:
 - (i) that the making of the loan, grant or donation would be in accordance with the other Rules of the Union; and
 - (ii) 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; and
- (b) has approved the making of the loan, grant or donation.

The financial year of the Union commencing on 1 October 2012 shall end on the 30 June 2013 and thereafter shall end on 30 June in each year.

5. **CONSTITUTION**

The Union shall consist of an unlimited number of persons:

PART A

- (A) Employed in or in connection with:
 - (i) Area Health Services, Hospitals, Mental Hospitals, Hospital Dispensaries, Nursing Homes, Sanatoriums, Rest Homes;

- (ii) Retirement Homes and Villages (excluding company or strata title retirement units) but including establishments which are attached to or have a nursing home or facility providing nursing care located within the grounds of the retirement village and further including retirement villages operated by religious organisations and/or charitable institutions and/or voluntary non-profit organisations;
 - (iii) Mental Health Services, Residential Care Facilities for the mentally ill, Sheltered Workshops, where such services or facilities are in the Public sector or are conducted by or as part of a hospital or nursing home in the private sector;
 - (iv) Industrial and other similar homes, special schools, Public Charitable Institutions, Ambulance Work (including First-aid work), Reception Houses;
 - (v) Diagnostic Services or Clinics providing Radiology, Pathology, Physiotherapy, Audiology, Dialysis Services and any other health services carried out for medical purposes;
 - (vi) Any person who is a medical practitioner employed in public and private hospitals, nursing homes and organisations registered or exempt from registration under the *Charitable Collections Act, 1934* and private medical practices.
- (B) Persons whose employer laundry and linen services on a Contractual or other basis to or for any institution, organisation, corporation, or other body engaged in any of the industries, activities or pursuits described in (A) above provided such person is in the course of his employment, principally engaged in the provision of such services.
- (C) Such other persons, whether or not employed or usually employed in the industry above described, who may be appointed Secretary, Assistant Secretary, Organiser or Industrial Officer of the Union.

PART B

The Union shall also consist of all persons of good character who are admitted as members of the Union; and;

- (a) who are employed as Chief Executive Officers, Deputy Chief Executive Officers, Directors of Operations, Directors of Corporate Services, Director of Health Services Development, Directors of Finance, Directors of Administration, Financial Controllers, Executive Directors, Executive Officers, Deputy Executive Officers, Managers, Deputy or Assistant Managers, Administrators, Deputy or Assistant Administrators, Secretaries, Assistant Secretaries, Accountants, Administrative Officers, Chief Clerks, and persons in positions of substantially similar character as specified above, employed in or deemed by statute to be employed by an Area Health Service, a Public Hospital or Private Hospital, Nursing Homes, Retirement Home, Hostel or Village.

PART C

Notwithstanding any other provision of this rule the Union shall not consist of persons employed in:

- (i) NSW Department of Community Services and successors thereto;
- (ii) NSW Department of Health (but not including health services and public hospitals);
- (iii) NSW Department of Juvenile Justice and successors thereto;
- (iv) Nurses employed as such in the NSW Health Service (as defined by the *Health Services Act 1997*)
- (v) Nurses employed as such by the Department of Community Services;
- (vi) Persons employed in Universities;

shall not be eligible for membership of the Union.

6. REGISTERED OFFICE

The registered office of the Union shall be at Level 2, 109 Pitt Street, Sydney. Notice of any change of Registered Office shall be given immediately to the Industrial Registrar.

7. ADMISSION TO MEMBERSHIP

- (a) An applicant for membership of the Union shall forward or cause to be forwarded to the Secretary:
 - (i) An application for membership on a form approved by the Union Committee for that purpose; or
 - (ii) An application for membership by telephone; or
 - (iii) An application for membership via the internet.
- (b) An applicant for membership of the Union shall be informed in writing of:-
 - (i) the financial obligations arising from membership of the Union; and,
 - (ii) the circumstances, and the manner, in which a member of the Union may resign from the Union.
- (c) Subject to sub-rule (d) of this Rule, an applicant shall become and be a member of the Union as from the date of receipt of the application by the

Secretary, or from the date upon which the applicant commences payment of annual contributions pursuant to these rules, which ever is the earlier.

- (d) The Secretary shall have power to refer any application for membership to the next ordinary meeting of the Union Committee for consideration and decision in which case such applicant shall be notified in writing by the Secretary of his/her admission to membership by the Union Committee, and shall thereupon be deemed to have become a member as from the date specified in sub-rule (c) of this rule. Where the Union Committee refuses such an application for admission, the Secretary shall forthwith notify the applicant in writing of such refusal and the grounds for such refusal and the applicant shall have the right of appeal to the Union Council provided that such appeal is made in writing and is delivered to the Secretary within fourteen (14) days of the applicant being notified of such refusal. The Union Council shall consider and determine the appeal at its next ordinary meeting. Where the decision of the Union Committee or the Union Council is favourable to the applicant, the applicant shall thereupon be deemed to have become a member as from the date specified in sub-rule (b) of this rule.
- (e) An applicant whose application is refused shall have refunded to him/her any amount or amounts paid by him/her by way of contributions.

8. CONTRIBUTIONS

- (a) The annual contributions payable by members shall be such amounts as may from time to time and from such date be determined by the Union Committee.
- (b) Contributions shall be payable 13 weeks in advance.
- (c) Notwithstanding anything contained in these Rules -
 - (i) the Union Committee may make arrangements with any employer whereby with the authority of any member or members of the Union contributions payable to the Union are to be deducted by the employer from the salary or salaries of the member or members on a regular basis and paid to the Union;
 - (ii) a member who has authorised such deduction of his/her contribution to the Union from his/her salary shall, subject to the provisions of paragraph (iii) of this sub-rule, be deemed a financial member of the Union so long as such authority remains in force and provided that such member owes no arrears of contributions, fines, fees or levies;
 - (iii) where an arrangement referred to in this clause is terminated by the employer or the Union Committee, the Secretary may 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 (28) days from the date of such written notice, pay to the Union 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 contribution payable by that member for that year less such amount or amounts as has or have been deducted by the employer from that employee's salary in respect of such annual contribution) and thereafter shall be liable to pay contributions in accordance with this Rule.

- (d) All contributions, fees, fines and levies payable by members of the Union shall be paid to and collected by the Secretary or his/her duly appointed agent.
- (e) The Union Committee, upon receipt of a written application by a member, shall have power to exempt such member from the payment either wholly or in part of any contributions, fees or levies payable by such member.
- (f) Notwithstanding anything contained elsewhere in these Rules:
 - (i) A member may apply in writing to the Secretary to pay his/her contributions by instalments paid fortnightly, monthly, quarterly (once every three months), or half-yearly (once every six months), on a basis of one twenty-sixth, one twelfth, one quarter, or one half, respectively, of the annual contribution payable. A member may apply to pay such instalments by any of the following methods:
 - A. by direct debit from a bank and/or financial institution account;
 - B. by a charge or credit card;
 - C. by cheque;
 - D. by cash; or
 - E. any other method approved by the Union Committee.
 - (ii) A member shall be deemed to have made application in writing to pay his/her contributions by instalments upon receipt of documentation by the Union which shows that member has paid or has authorised payment of his/her contributions by periodic instalments available under paragraph (f)(i), and by one of the methods referred to in that paragraph (f)(i). Any such application made before the commencement date shall be treated as an application for the purposes of this Rule.
 - (iii) The Union Committee shall have power to determine that on receipt of any written application or applications, any or all or any class or classes of members who apply to pay contributions by instalments, shall be permitted to do so by instalments from the date of such application, and may exercise that power in advance of or in anticipation of applications by members to pay contributions by instalments.

- (iv) Where a member is permitted to pay his/her contributions by instalments in accordance with this Sub-Rule, the permission shall take effect from the date the member commences to so pay.
- (v) Where a member's payment of an instalment has not been received by the Union by the date on which it was due, the Secretary shall notify that member:-
 - A. the Union has not received that member's instalment payment;
 - B. of the consequences to the member of failure to pay that instalment as provided by this Rule; and
 - C. of the amount of the balance of the member's annual contribution owing for the year to which that contribution relates.
- (vi) A member notified in accordance with paragraph (v) above shall pay the instalment within twenty-one (21) days from the date of the written notice from the Secretary. A member who fails to pay that instalment within those twenty-one (21) days shall cease to be entitled to pay the membership contribution by instalment and shall within a further seven (7) days from those twenty-one (21) days be liable to pay the balance of that member's contribution for the relevant year.
- (vii) A member shall be liable to pay contributions for any period for which the Union has not received a payment by instalment. A member owing contributions, fines, fees or levies equivalent to an amount in excess of thirteen (13) weeks' contributions shall be deemed to be unfinancial.
- (viii) This Sub-Rule 7(f)(viii) applies to any member who has prior to the commencement of this Rule made or caused a payment to be made or documentation to have been provided to the Secretary of the Union which showed an intent to pay his/her contributions by periodic instalments as described in paragraph (f)(i) and (ii), and by one of the methods therein, and did pay any such instalment. Such a member shall on and after the commencement of this Rule be taken to have applied to and have been permitted to (and by this Sub-Rule also is retrospectively permitted to) pay his/her contributions by instalment from the date the member made the payment, and shall be treated as a financial member for all purposes in respect of the periods of time to which such payments are referable.

9. **LEVIES**

The Union Committee shall have the power to impose levies on members of the Union, provided that such levies shall not in any financial year exceed twenty (20) per

cent of the annual contribution then enforced per member unless approved by a general meeting of members of the Union.

10. FINANCIALITY RULE

- (a) A member owing contributions, fines, fees or levies equivalent to an amount in excess of thirteen (13) weeks contributions shall be deemed to be unfinancial.
- (b) An unfinancial member shall not be entitled -
 - (i) to any of the rights and privileges of membership;
 - (ii) to nominate for or hold any office or in any way participate in any ballot or election in the Union;
 - (iii) to attend or speak or vote at any meeting of the Union.
- (c) Any member exempted pursuant to Rule 8(e) of these Rules from payment either in whole or in part of any contribution, 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 the Union.

11. LIFE MEMBERS

A member is eligible for consideration by Union Council as a life member, where such a member has had a minimum of fifteen years membership of the Union of which at least 10 years have been as active members of the Union.

The period of continuous membership with the Public Service Association incurred by members who transferred their membership to the Health Services union, will also be recognised.

Activity for this purpose shall be such as a Sub-Branch Committee member, Non Sub-Branch representative, Councillor, and/or Official of the Union.

The Union Council has the sole right to propose persons for Life membership notwithstanding that six financial members shall have the right to submit nominees to Union Council for its consideration.

Following the proposing of a member for life membership by Union Council, the matter will be determined by a majority of voting strength at the Annual Delegates Convention of the Union.

A life member must be retired from an area of the Union coverage.

All persons prior to the operation of this rule who have been elected to Life membership at past Annual Delegates Conventions/ Annual Delegates Conventions will be considered Life members under this rule.

Life members are not financial members.

12. STUDENT MEMBERS

Any person attending a course of study that upon graduation will enable them to seek employment in a vocation covered by rule 5 Constitution of these rules, shall be eligible to join the Union as a Student member and pay no fee.

Student members are not financial members.

13. RETIRED MEMBERS

- (a) A member upon retiring from active employment in any of the vocations or industries as described in Rule 5 of these Rules, is eligible to become a retired member of the Union.
- (b) Retired membership will be confirmed by the Secretary and confirmed by the Union Committee.
- (c) The granting of retired membership status will be at the sole discretion of the Secretary and the Union Committee.
- (d) Retired members do not have any of the rights of ordinary financial members of the Union as set out in the Rules, nor do they count as a part of the Union's formal membership for the purpose of reporting to the relevant industrial authorities.
- (e) A separate register of retired members will be kept by the Union for the purpose of facilitating in their participation in and keeping them informed of Union activities.
- (f) Expenditure in relation to retired members is at the ongoing discretion of the Union Secretary and the Union Committee.

14. TERMINATION OF MEMBERSHIP

- (a) Membership of a member of the Union shall be terminated:
 - (i) by resignation in accordance with these Rules,
 - (ii) by expulsion in accordance with these Rules,
 - (iii) by the member's ceasing to be eligible to become a member of the Union other than by being elected as a Member of Parliament or unless the member is a life member pursuant to Rule 9 of these Rules.

Provided that any person who is or becomes a member of the Union by virtue solely of her/his election or appointment or employment as a full-time officer or employee (other than clerical or administrative employee) of the Union shall, unless otherwise eligible to become or remain a member of the Union, forthwith cease to be a member of the Union upon her/his ceasing to hold such position in the Union.

- (b) A member may resign from membership of the Union by notice in writing addressed and delivered to the Secretary.
- (c) A notice of resignation from membership of the Union shall take effect:-
 - (i) where the member ceases to be eligible to become a member of the Union -
 - A. on the day upon which the notice is received by the Union, or
 - B. on the day specified in the notice, which is a day not earlier than the day when the member ceased to be eligible to become a member,whichever is the later; or
 - (ii) in any other case -
 - A. at the end of two (2) weeks after the notice is received by the Union, or
 - B. on the day specified in the notice,whichever is the later.
- (d) A notice delivered to the Secretary shall be taken to have been received by the Union when it was delivered.
- (e) A notice resignation that has been received by the Union shall not be invalid because it was not addressed and delivered in accordance with sub-rule (b) of this Rule.
- (f) A resignation from membership of the Union shall be valid even if it is not effected in accordance with the foregoing provisions of this Rule if the member is informed in writing by or on behalf of the Union that the resignation has been accepted.

15. INSPECTION OF BOOKS

Any financial member of the Union shall, on giving three (3) days' notice to the Secretary if seeking to inspect Union books, and within the ordinary hours of the Union be entitled to inspect the books and documents of the Union, provided that the Union Council may refuse to allow inspection of such books and documents

where to do so would, or would be likely to, amount to a breach of confidentiality or an invasion of privacy in respect of any other member or person.

16. RULE BOOK

Every member of the Union shall on application be supplied with a copy of these Rules.

17. UNION COMMITTEE

- (a) The Union Committee shall consist of the President, the Senior Vice-President, the Junior Vice-President, the Secretary, the Assistant Secretary-Treasurer and five (5) ordinary members.
- (b) The Union Committee shall be the committee of management of the Union.
- (c) The Union Committee shall meet at least monthly.
- (d) A special meeting of the Union Committee may be called by the Secretary if requested to do so by no less than four (4) members of the Union Committee.
- (e) Meetings of the Union Committee may be conducted by telephone or by such other electronic means as may be available from time to time.
- (f) Six (6) members of the Union Committee shall constitute a quorum.

18. POWERS AND DUTIES OF THE UNION COMMITTEE

The Union Committee shall have power to -

- (a) to transact all the business of the Union;
- (b) to supervise and pay all, lawful debts of the Union;
- (c) to periodically review and attend to the collection of all fees, levies and payable by members;
- (d) to generally watch the interests of the Union;
- (e) to direct the Secretary and Assistant Secretary-Treasurer in the performance of their duties;
- (f) to investigate grievances and disputes submitted by its members;
- (g) to appoint collectors and agents to collect moneys on behalf of the Union;
- (h) to appoint the Union Auditor;

- (i) to take any action which in its opinion is in the interests of the Union; and
- (j) to exercise any other powers conferred upon it by these rules.

19. UNION COUNCIL

- (a) The supreme governing body of the Union, subject to these Rules and to the control of the Union members as hereinafter mentioned, shall be the Union Council which shall meet annually at a place and on a date to be fixed by the Union Committee. Provided that the Union Committee may call meetings of the Union Council at other times to deal specifically with matters arising under sub-rule (f)(C) hereof.
 - (b) The Union Council shall consist of:
 - (i) the Officers;
 - (ii) Twenty-four (24) Councillors constituted as follows:
 - (A) Twenty-one (21) Councillors with at least one (1) but not more than two (2) being drawn from hospitals or health services in each of the fifteen (15) local health districts (refer Note 1) provided that one (1) Councillor shall come from the Health Managers Sub-Branches;
 - (B) One (1) Councillor from a Private Hospital;
 - (C) One (1) Councillor from a non-public sector aged care facility;
 - (D) One (1) Councillor from the NSW Ambulance Service; and
- Note 1 – The fifteen (15) local health districts (“LHD”) as constituted by section 17, and specified in Schedule 1 of the Health Services Act 1997 (NSW), as at the date of the certification of this Rule, with these being Sydney LHD, South Western Sydney LHD, South Eastern Sydney LHD, Illawarra Shoalhaven LHD, Western Sydney LHD, Nepean Blue Mountains LHD, Northern Sydney LHD, Central Coast LHD, Hunter New England LHD, Murrumbidgee LHD, Southern NSW LHD, Western NSW LHD, Far West LHD, Mid North Coast LHD, and Northern NSW LHD.
- (c) Meetings of the Union Council may be conducted by telephone or by such other electronic means as may be available from time to time.
 - (d) In the event that a member of the Union Council shall for any reason or at any time be unable to be present at any meeting of Union Council he/she may appoint in writing another member of the Union Council as his/her proxy to exercise his/her vote at such meeting. A member of Union Council may be appointed proxy for any number of members.

- (e) A special meeting of Union Council shall be called by the Union Committee if requested to do so by no less than fifteen (15) members of the Union Council.
- (f) The Union Council, shall, subject to these Rules and to the control of the Union members are hereinafter mentioned, have power:
 - (A) to generally watch the interests of the Union;
 - (B) to fix the remuneration and terms and conditions of employment of any officer or employee of the Union;
 - (C) to suspend or remove from office in accordance with these Rules any officer of the Union;
 - (D) in addition to the powers of the Union Committee, to alter, amend, rescind or add to any Rules;
 - (E) to develop and implement Union Policies and Procedures in accordance with Rule 39;
 - (F) to review decisions of the Union Committee; and
 - (G) to take any action which in its opinion is in the interests of the Union.
- (g) The quorum for a meeting of the Union Council shall be eighteen (18) members of the Council.

20. ELECTIONS

Elections shall take place in 2010 and each four (4) years thereafter for all Union positions.

(a) General

The provisions of this rule shall apply to all elections for the following positions in the Union

- (i) Officers;
- (ii) Ordinary members of the Union Committee; and
- (iii) Councillors of the Union Council.

(b) Tenure of Office

- (i) Elections for the positions set out in sub-rule (a) herein shall be conducted every four (4) years by secret postal ballot of all financial members of the Union. Persons declared elected shall hold office for four (4) years or until such time as their successors have been elected or appointed and taken office.

- (ii) In the event that the taking of an office occurs beyond the time at which the term of office would ordinarily expire, for any reason including any caused by any election inquiry conducted by the Industrial Court under the Industrial Relations Act 1996, the person elected shall take office from the time of declaration of the ballot in which he/she is elected, and shall hold office for a period of four (4) years less the period of the time between the time that the term of office would ordinarily expire and the taking of office, or until a successor has been elected and taken office.
 - (iii) The purpose of paragraph (ii) of this sub-rule is to ensure that so far as possible elections are synchronised, in a four (4) yearly cycle, with persons elected to office taking office from the time of declaration of the ballot in which he/she is elected and holding office for a period of four (4) years, and, if there are any delays in the electoral process, returning elections to that synchronised cycle.
- (c) Returning Officer
- (i) At its first meeting after election the Union Committee shall appoint a Returning Officer for the conduct of any ballots or plebiscites and, subject to the Industrial Relations Act 1996, any elections as may be necessary throughout the ensuing year provided that a duly appointed Returning Officer shall hold office until a successor thereto is duly appointed.
 - (ii) A Returning Officer so appointed –
 - a. May or may not be a member of the Union;
 - b. Shall not be the holder of any office in or an employee of the Union; and
 - (iii) 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 or ballot or not, the Union Committee shall appoint another person to act as Returning Officer for that election or ballot.

(d) Conduct of Elections

The Returning Officer shall conduct elections and ballots of the Union in the following manner.

- (i) No later than 24th of May, nominations for positions shall be called for in a daily newspaper circulating in the state of New South Wales and on the Union's website.
- (ii) The opening date of nominations shall be the 1st of June with the closing date of the nominations being the 14th of June.

- (iii) Nominations must be in writing signed by the member who is nominated, and endorsed by at least six (6) financial members of the Union. In respect of nominations for positions of Councillors of the Union Council, the nomination must include the nominee's employer and location of employment.
- (iv) Nominations must be forwarded by certified mail or by any other means that ensures delivery to the Returning Officer at the registered office of the Union.
- (v) Every nominee may provide with their nomination a candidate statement containing information on their employer and position and a brief statement of experience, suitability for office and the objectives and policies intended to be pursued if elected. The candidate statement may also contain brief information as to any group of candidates the nominee is aligned with. The candidate statement shall be limited to a maximum of three hundred (300) words and shall be distributed by the Returning Officer with the ballot papers should the nominee's nomination be compliant and a ballot for the position required. Provided that no candidate statement will be distributed if it is in the absolute opinion of the Returning Officer, derogatory, offensive, discriminatory and/or defamatory.
- (vi) In the case of a team nomination under subclause 19(e), the team may provide with their nomination a team statement containing information on the members of the team including the employer and position of team members, a brief statement of experience and suitability for office of team members and the objectives and policies intended to be pursued by the team if elected. The team statement shall be limited to a maximum of five hundred (500) words and shall be distributed by the Returning Officer with the ballot papers should the nominee's nomination be compliant and a ballot for the position required. Provided that no candidate statement will be distributed if it is in the absolute opinion of the Returning Officer, derogatory, offensive, discriminatory and/or defamatory.
- (vii) At the closing hour of the nominations, the Returning Officer, in the presence of the Scrutineers (if present), shall proceed to open all nominations.
- (viii) 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 his/her finding a defect in any nomination, he/she shall before rejecting the nomination notify the person concerned of the defect, and, where it is practicable to do so, give him/her the opportunity of remedying the defect where practicable within seven days of his/her having been so notified.
- (vix) If there be no more nominations than the number to be elected for any position, the Returning Officer shall declare the nominated person/s to be elected to the position/s. The names of the persons



so declared elected by the Returning Officer will appear on the ballot paper with the words “declared elected” printed in a box next to his or her name. The person or persons shall take office in accordance with sub-rule (b).

- (x) A candidate who has been nominated in an election may, by notice in writing addressed to the Returning Officer, withdraw the nomination at any time before the close of nominations.
- (xi) If there are two (2) or more nominations for any position, the Returning Officer shall advise each of the candidates immediately on receipt of the nominations of the names of the other candidate or candidates.
- (xii) The day on which the roll of voters for the ballot is to be closed shall be on the seventh day prior to the opening of nominations.
- (xiii) Candidates shall have the right on request, to scrutinise the membership records of the Union.
- (xiv) If more than the required number of nominations are received for any position, the Returning Officer shall have ballot papers printed and delivered to him containing the name of the candidates for each position in an order chosen in accordance with sub-rule (d)(xiv) herein, 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.
- (xv) The order of candidates’ names on ballot papers will be determined by lot, the drawing of which shall be conducted at a time that will be determined by the Returning Officer. The candidates will be notified of such date and time.
- (xvi) The ballot shall open on the 7th of July. The ballot shall close at 5pm on the 7th of August.
- (xvii) The Returning Officer shall, forward by prepaid post to every member entitled to vote a ballot paper which has been initialled by him/her together with an envelope containing the ballot paper marked “Ballot paper – Health Services Union” and a business reply envelope addressed to the Returning Officer, Mail Exchange box number (obtained for the ballot). He/she shall forward by prepaid post a ballot paper and declaration envelope and a prepaid envelope addressed to the Returning Officer for the return of the vote to each member entitled to receive a ballot paper.
- (xviii) Envelopes enclosing ballot papers shall be marked: “if not delivered within seven (7) days please return to P.O. Box No. ” (obtained for ballot).



- (xix) The Returning Officer shall secure a postal box and bag, in his/her name, at the mail exchange to which all ballot papers shall be returned.
- (xx) The Returning Officer, in the presence of a Scrutineer (if present), shall clear the box and bag each day of business and shall sign for receipt of ballot papers from the mail exchange.
- (xxi) Immediately after the closing date of the ballot, the box and bag at the Mail Exchange shall be cleared by the Returning Officer, in the presence of the Scrutineers, who shall accompany the Returning Officer to his/her office or place approved by the Returning Officer, to begin the counting.
- (xxii) The Returning Officer shall be responsible for the safe custody of the ballot papers.
- (xxiii) On request of a member prior to the closing date of the ballot, his/her returned, undelivered ballot paper shall be readdressed. At the close of the ballot, the Returning Officer shall separate returned, undelivered ballot papers from returned votes, and the undelivered ballot papers shall be retained.
- (xxiv) At the close of the issue of ballot papers, the number issued by the Returning Officer shall be checked with the ballot papers and business reply envelopes obtained from the printers, and the surplus shall be retained.
- (xxv) Upon completion of the count of the ballot, the Returning Officer shall immediately inform the President that he/she is ready to announce the result. The President shall convene a special meeting of the Union Committee or a special General Meeting as soon as practicable at which the Returning Officer shall declare the result of the ballot. The persons so declared elected will take office from the conclusion of the meeting in accordance with sub-rule (b).
- (xxvi) In the event of a tie occurring in any the result shall be determined by the Returning Officer drawing lots provided that if one of the tied candidates is a retiring office holder from the position subject of the ballot he/she shall be declared elected.
- (xxvii) The Returning Officer will then notify all successful candidates by letter of their election.

(e) Team Nominations

Notwithstanding anything in sub-rule 19(d) of this rule, candidates in an election of the Officers, ordinary members of the Union Committee and Councillors of the Union Council may, subject to the following conditions, nominate as members of a "team nomination":-

- (i) Each candidate being nominated as a member of a team nomination must signify his or her acceptance of such nomination by signing the nomination to the Returning Officer.
 - (ii) No member of a team nomination may nominate or be nominated as a member of another “team nomination” or as an individual candidate.
 - (iii) “Team” nomination must nominate a candidate (or the required number of candidates) for each position for which nominations have been called whereupon each candidate will be considered to have nominated for each position concerned.
 - (iv) The Returning Officer will ensure that the names of members of a team nomination are printed on the ballot paper in a manner which clearly identifies that the candidate is standing for election in the nominated position as part of a team. The names of members of a team nomination will appear on the ballot paper as a group. If there is more than one team nomination the order of team nomination appearing on the ballot paper will be determined by lot at the same time and place as the determination by the Returning Officer of the order on the ballot paper of individual candidates. The Returning Officer will at the same time also determine by lot whether the team nominations appear before or after the names of individual candidates on the ballot paper.
 - (v) Where a person who has nominated as part of a team nomination is declared elected to a position by the Returning Officer pursuant to sub-rule (d) of this rule, that person’s name together with the words “declared elected” shall appear on the ballot paper together with the other members of the team nomination.
 - (vi) The Returning Officer shall ensure that the ballot paper makes provision for the recording of a vote for each member of a team nomination by way of marking one box at the top of the list of names of members of that team (a “team box”). The Returning Officer shall also ensure that the ballot paper contains clear instructions to the effect that a member voting may vote individually for candidates, including members of a team nomination, or, alternatively, vote for each member of a team by marking the team box.
 - (vii) Once a candidate has nominated for a team nomination he or she cannot withdraw unless with the consent of all the members of that team. Where there is consent for a withdrawal, the team nomination form may be amended to provide for a replacement nominee
- (f) Qualification for Office
- (i) Nominations for any position of full time paid Officer shall have been a continuously financial member of the Union for not less than twelve

(12) months immediately preceding his/her nomination and shall be a financial member of the Union at the date of his/her nomination.

- (ii) Nominations for any position other than that of full time paid Officer shall have been a continuously financial member of the Union for not less than three (3) months immediately preceding his/her nomination and shall be a financial member of the Union at the date of his/her nomination.
- (iii) No member may nominate for more than one (1) position at each election of Officers and ordinary members of the Union Committee. In addition no member may nominate for the positions of Officer and Councillor of the Union Council at any election. For the avoidance of doubt, any member may nominate for the position of Councillor of the Union Council and ordinary member of the Union Committee at any election.

(g) Scrutineers

- (i) Each candidate shall have the right to appoint a Scrutineer, who shall be entitled to be present at all stages of the ballot, without cost to the Union. The candidate appointing the scrutineer shall, before the closing of nominations, notify the Returning Officer in writing of the name of such scrutineer.
- (ii) Scrutineers may be present during the whole conduct of the ballot and at every operation from receipt of nominations to final count of the ballot.
- (iii) Scrutineers 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 vote so queried.
- (iv) Scrutineers shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election.
- (v) Scrutineers shall not interfere with or attempt to influence any member at the time such member is casting his vote.

(h) Extraordinary Vacancies of the Union

- (i) Where an extraordinary or casual vacancy (howsoever occurring) in the office of any Officer, ordinary member of the Union Committee or Councillor of the Union Council, the Union Committee shall take immediate action to have such vacancy filled by secret postal ballot of all financial members of the Union provided that:
 - a. where the unexpired portion of the term of office in which the vacancy occurs does not exceed three (3) years, the Union

Committee may fill such vacancy by appointment of an eligible member of the Union; and,

- b. where the unexpired portion of the term of office in which the vacancy occurs exceeds three (3) years the Union Committee may fill such vacancy by appointment of an eligible member of the Union until an election is held, provided that no person so appointed shall hold office for a period exceeding six (6) months.
- (ii) Such ballot 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 Union Committee.
 - (iii) Any person so elected shall take office from the date of the declaration of his/her election and shall hold office until the expiration of the term of the person he/she replaces.
- (i) System of Voting
 - (i) The system of voting in any election conducted pursuant to this Rule shall be the first-past-the-post system.
 - (ii) A voter shall record his/her vote or votes (as the case may be) by placing a single 'X' or a tick opposite the name or names of all candidates for whom he/she desires to record a vote provided that he/she shall not record a vote for more candidates than are required to fill any particular position or office.
 - (iii) A ballot paper shall be rejected if it is not marked in a manner prescribed or allowed by this Rule; but except as otherwise provided by these Rules a ballot paper shall not be rejected for any reason other than the reason set out in this Rule but effect shall be given according to the voter's intention so far as his/her intention is clear.

21. ELECTION TO OFFICE

- (a) Notwithstanding any other provision of these rules, each of the persons elected from time to time to offices of the New South Wales Branch of the Health Services Union, being an organisation registered under the Fair Work (Registered Organisations) Act 2009 of the Commonwealth shall be taken to be validly elected to the corresponding office of the Union, from and for so for so long as the Industrial Registrar is satisfied that:
 - (i) the membership of the New South Wales Branch of the Health Services Union and the membership of the Union are identical or substantially similar (except for members employed in the Australian Capital Territory); and

- (ii) the rules of the New South Wales Branch of the Health Services Union relating to the election of the holders of offices comply substantially with the requirements relating to election of the holders of offices under the Industrial Relations Act 1996; and
- (b) within twenty-eight (28) days (or such longer period as the Industrial Registrar allows) of the Union becoming aware of the following issues, the Union shall provide written notice to the Industrial Registrar:
 - (i) Of any amendments of the rules of the New South Wales Branch of the Health Services Union concerning the election of officers;
 - (ii) That the membership of the New South Wales Branch of the Health Services Union and the membership of the Union is no longer identical or substantially similar; or
 - (iii) That offices in the New South Wales Branch of the Health Services Union no longer directly correspond with the offices in the Union.
- (c) The late lodgement with the Industrial Registrar of a notice under sub-rule (b) shall not invalidate the election of persons taken to be elected under this rule during any period in respect of which the Industrial Registrar is satisfied that the facts required to be established have been established.
- (d) This rule shall apply to the filling of casual vacancies by election and appointment
- (e) A person who ceases to hold office in the New South Wales Branch of the Health Services Union shall forthwith cease to hold the corresponding office in the Union.
- (f) This rule shall apply in relation to any future election to fill a vacated office or on expiry of the term of office of an officer in the Union.
- (g) In the event that the Industrial Registrar considers that that the criterion set out in sub-rule (a) (i) and (ii) of this rule is or was not satisfied, officers of the Union must be elected in accordance with the provisions of the ordinary election rule(s) of the Union.

22. VACATING OFFICE

A person shall not be eligible to hold the office of an Officer, Councillor of the Union Council, or ordinary member of the Union Committee and such office shall become vacated in the following circumstances:

- (a) by resignation in writing signed by the person concerned and forwarded to the Secretary;
- (b) by death or becoming of unsound mind;

- (c) by ceasing to be a member of the Union;
- (d) by becoming an unfinancial member;
- (e) by removal from office in accordance with these rules.
- (f) In the case of an office of a full time paid officer if the person elected to the corresponding office in the New South Wales Branch of the Health Services Union has not been a financial member of the Union for a period of not less than twelve (12) months prior to his/her nomination for election nomination to the corresponding office in the New South Wales Branch of the Health Services Union or was not a financial member of the Union as at the date of his/her nomination for election to the corresponding office in the New South Wales Branch of the Health Services Union.
- (g) In the case of any office other than one of a full time paid officer if the person elected to the corresponding office in the New South Wales Branch of the Health Services Union has not been a financial member of the Union for a period of not less than three (3) months prior to his/her nomination for election nomination for election to the corresponding office in the New South Wales Branch of the Health Services Union or was not a financial member of the Union as at the date of his/her nomination for election to the corresponding office in the New South Wales Branch of the Health Services Union.

23. REMOVAL FROM OFFICERS

- (a) An Officer of the Union or a member of the Union Committee or a Councillor of the Union Council may be removed from his/her office if the Union Council by majority resolution of members voting finds him/her guilty, in accordance with these rules, of misappropriation of the funds of the Union, a substantial breach of the rules of the Union, gross misbehaviour or gross neglect of duty or finds that he/she has ceased, according to these rules, to be eligible to hold his/her office.
- (b) Such person may be charged by any member under this rule and such a matter should in the first instance be dealt with by the Union's Ombudsman under rule 37. Any charge shall be in writing and shall be forwarded to the President or the Secretary, who shall notify the person charged of the details of the charge.
- (c) The person charged shall be given not less than fourteen (14) days' notice in writing of the time and place of the meeting at which the charge is to be heard and determined and shall be entitled to attend such meeting and to be heard but not to vote thereat.

24. PRESIDENT

The President of the Union shall be the official head of the Union and -

- (i) shall preside at all meetings of the branch, Union Committee and the Union Council and preserve order thereat so that business may be conducted in due form with propriety and in conformity with standing orders;
- (ii) shall sign all documents requiring his/her signature as official head of the Union and shall sign all minutes of the Union duly confirmed in the presence of the meeting confirming the same;
- (iii) shall instruct the Secretary to call meetings of the Union Committee, Union Council and General or Special Meetings of members when necessary;
- (iv) shall generally ensure the well-being of the Union and its members and the carrying out of the objects of the Union.
- (v) shall be a member of the Audit and Compliance Committee.

25. VICE-PRESIDENTS

- (a) The Vice-Presidents shall at all times assist the President in the execution of his/her duties and when requested by the President shall carry out such functions of the President in his/her absence as the President authorises in writing.
- (b) In the absence of the President, the Senior Vice-President (and in his/her absence also the Junior Vice-President) shall preside over a meeting of the Union, the Union Committee or the Union Council and when so doing shall exercise all the powers and functions of the President.
- (c) In the event of the President and all Vice-Presidents being absent from a meeting of a Union, or the Committee or the Union Council, the members present shall appoint a chairman to preside over the meeting.

26. SECRETARY

The Secretary shall be the chief executive officer of the Union and subject to these Rules, have charge of the general conduct, administration and business, of the Union. He/she shall be the investigating and organising officer of the Union and shall be the officer to sue and to be sued on behalf of the Union. The Secretary shall be ex-officio, a member of all committees and Sub-Committees of the Union.

The Secretary shall -

- (a) call and attend all meetings of the Union, Union Committee and Union Council unless excused and keep or cause to be kept minutes of the business transacted at such meetings;
- (b) keep an up-to-date register of Union members showing their names and their postal addresses so far as known;
- (c) conduct the business and correspondence on behalf of the Union;

- (d) provide the Returning Officer with such assistance as is necessary to enable them to conduct any elections.
- (e) inform the President whenever he/she will be absent from duty or from a meeting;
- (f) subject to any direction of the Union Committee appoint, engage, control and dismiss such clerical and other staff as may be necessary for the conduct of the affairs of the Union;
- (g) prepare returns required by the *Industrial Relations Act 1996* other than financial and accounting returns;
- (h) have the right to attend or appoint a member of the Union to attend any meeting of members of the Union and to speak and vote on any matter before such meeting provided that a person appointed to attend any such meeting by the Secretary shall also have the right to speak and vote thereafter subject always to any directions given to him/her by the Secretary; and,
- (i) carry out such other duties as the Union Committee may from time to time assign to him/her or as may be conferred upon him/her by these rules or as may be required by the *Industrial Relations Act 1996*.

27. ASSISTANT SECRETARY-TREASURER

The Assistant Secretary-Treasurer of the Union shall:

- (a) assist the Secretary at all times in the execution of his/her duties;
- (b) receive or cause to be received all moneys on behalf of the Union and issue receipts and pay all moneys received by him/her on behalf of the Union into such bank, Building society, credit union or any other financial institution as the Union Committee may from time to time decide;
- (c) have charge of the financial books and statements the Union;
- (d) prepare and present to each meeting of the Union Committee an up-to-date financial statement and when called upon to do so by the Union Committee;
- (e) hand to his/her successor, on the latter's election, all moneys and property held by him/her on behalf of the Union;
- (f) prepare financial and accounting returns required by the *Industrial Relations Act 1996*;
- (g) ensure that Union Policies and Procedures are implemented in accordance with Rule 39;

- (h) carry out such ever duties of the Union Committee may from time to time assign to him/her or as may be conferred upon him/her by these Rules or as may be required by the Industrial Relations Act 1996;
- (i) subject to sub-rules (b)-(h) above, be subject to the direction of the Secretary and act in his/her stead whenever appointed to do so by the Union Committee.

28. PLEBISCITE

- (a) Notwithstanding anything contained in these rules, a plebiscite of all members of the Union:
 - (i) may be held for any purpose at the discretion of the Union Committee; and,
 - (ii) shall be held if requested by a requisition in writing and signed by not less than five (5) per cent of the financial members of the Union.

Such requisition to contain in block letters the name of each member signing same and the name of the establishment at which such member is employed. Provided that no decision of the Union Committee or the Union Council shall be reviewed or referred to a plebiscite of members pursuant to paragraph (ii) of this sub-rule unless the appropriate request has been delivered to the President or Secretary within two (2) months of the said decision.

- (b) Any such plebiscite shall be conducted by secret postal ballot and shall be under the absolute control and direction of the Returning Officer who shall -
 - (i) prepare ballot papers which shall contain the question to be voted on;
 - (ii) issue a ballot paper to each member entitled to vote;
 - (iii) determine the time and date for the closure of the ballot, having consideration for the convenience of the voters;
 - (iv) take such steps as are necessary to ensure that a result is correctly ascertained; and,
 - (v) report the result of the plebiscite to the first meeting of the Union Committee held after the conclusion of the counting of the votes cast.
- (c) A simple majority decision of the members voting shall be final and shall prevail over any contrary decision of the Union Committee or the Union Council.

29. AUDITOR

An Auditor shall -

- (a) be appointed annually by the Union Committee;
- (b) be a competent person within the meaning of the *Industrial Relations Act 1996* ("State Act");
- (c) perform such functions and duties as are prescribed by the State Act and Chapter 8 Part 3 of the Fair Work (Registered Organisation) Act 2009 (Cth) ("Federal Act") as if the Union were registered under the Federal Act and such other functions and duties not inconsistent with the State Act and the Federal Act as are required by the Union Committee;
- (d) have access to and examine if desired all books, papers, deeds, documents and accounts of the Union and be empowered to question any office-bearer or officer or employee of the Union with regard to the same and to obtain from any bank or other institution at which the funds of the Union are deposited or invested such information as he/she may require;
- (e) have power to place before the Union Committee any suggestion he/she may desire to make concerning the financial affairs of the Union.

30. ALTERATION OF RULES

These rules may be amended, rescinded or new rules made by the Union Committee, Union Council or by a special general meeting of members. Any proposal to amend the Union's rules shall be referred to the Union Committee, Union Council or a special general meeting of members who may, at their discretion, approve or disapprove such proposal.

All proposed rule changes shall be distributed in writing to members of the Union Committee, Union Council or special general meeting of members, seven (7) days prior to the meeting at which proposed alterations to the rules are to be considered. The Union Committee or Union Council may waive the requirement for seven (7) days notice of proposed rule changes in circumstances which require the urgent alteration of the Union's rules..

31. DISSOLUTION

The Union shall not be dissolved so long as there are not less than one hundred (100) members. The question of dissolution shall be determined by a plebiscite in accordance with these Rules.

If it is so decided that the Union shall be dissolved all the property of the Union shall be converted into money and all liabilities of the Union shall be forthwith paid and discharged and the balance of such monies remaining shall be paid to a registered charity determined by the Union Council. The balance of any remaining monies shall not be transferred to the remaining members on the books.

32. AGREEMENTS

An industrial or enterprise agreement and any instrument not required by law to be under seal may be executed by the Secretary or the Assistant Secretary-Treasurer. Any instrument required by law to be under seal may be executed under the common seal of the Union in the presence of the Secretary, or Assistant Secretary-Treasurer. The Assistant Secretary-Treasurer shall be responsible for the custody of the common seal of the Union.

An industrial dispute may be submitted to conciliation or arbitration by the Secretary or Assistant Secretary-Treasurer. The Secretary, or in his/her absence the Assistant Secretary-Treasurer, shall have full power to transact all business and do or authorise all acts and things in connection with such dispute.

33. REPRESENTATION BEFORE INDUSTRIAL TRIBUNALS

The Union may be represented in any proceeding before any industrial tribunal by such person as the Secretary may appoint.

34. SUB-BRANCHES

- (a) Sub-Branches of the Union may be established by the Union Committee at workplaces where fifteen (15) or more are enrolled, provided that workplaces where less than fifteen (15) employees are enrolled shall be grouped conveniently by the Union Committee so as to form Sub-Branches and so that each Sub-Branch so formed shall comprise not less than fifteen (15) members. Provided further the Union Committee may authorise the establishment of more than one Sub-Branch in a workplace.
- (b)
 - (i) In addition to the Sub-Branches created pursuant to Rule 34(a), separate Sub-Branches known as Health Managers Sub-Branches, may be established by the Union Committee on an local health district basis where fifteen (15) or more are enrolled as members, provided that where less than fifteen (15) employees are enrolled they may be grouped by the Union Committee so that each Health Managers Sub-Branch shall comprise not less than fifteen (15) members.
 - (ii) Members eligible to be members of a Health Managers Sub-Branch may not attend nor vote at Sub-Branch meetings of the institution at which they are employed. They may not accept office in any institutional or other Sub-Branch.
- (c) The members of the Sub-Branch shall elect a committee consisting of a President, Vice-President, Secretary and a number of members of the Sub-Branch, all of whom shall be representatives of the Sub-Branch. The number of ordinary Sub-Branch members to be elected to the committee shall be determined by the Sub-Branch, but, in any case, such number shall be not less than five (5). If more than sufficient candidates are nominated elections shall be held in the order, President, Vice President, Secretary, Committee Member. The quorum of a Sub- Branch committee shall be not

less than four (4). The quorum of a Sub-Branch meeting shall be not less than seven (7), provided that only members who at the time of nomination have had at least 12 months' continuous financial membership shall be eligible to nominate for the position of President, Vice-President, Secretary, except where this provision is waived by the Secretary on the grounds of not previously having sufficient members at a workplace. All other provisions of this Rule apply to those members.

The Sub-Branch committee shall have no power to alter or rescind Rules or to enforce, or perform functions in relation to the enforcement of Rules, or to exercise any of the functions of management.

- (d) (i) The members of the Sub-Branch committee shall be elected annually by secret ballot at the Annual General Meeting and shall hold their positions until the next succeeding Annual General Meeting or until their successors have been appointed, whichever is the sooner.
- (ii) At least twenty-one (21) days notice in writing on notice boards accessible to all members of the Sub-Branch shall be given by the Sub-Branch Secretary to members of the date set for Annual General Meetings.
- (iii) At the Annual General Meeting, a Returning Officer and two (2) Scrutineers shall be appointed for the purposes of conducting elections under this Rule and shall exercise their respective functions until their successors have been appointed. The Returning Officer and Scrutineers so appointed,
- (1) may or may not be a member of the Union,
- (2) shall not be the holder of any office in or an employee of the Union. In the event of the Returning Officer or Scrutineers being unable to carry out their duties the Sub-Branch committee may appoint a Returning Officer and/or Scrutineers to conduct the election.

The Returning Officer and Scrutineers so appointed by the Sub-Branch committee shall only act until the Returning Officer and Scrutineer can resume their duties.

- (iv) Nominations must be in writing, signed by the member who is nominated and endorsed by at least two (2) financial members and must be forwarded by registered mail or by any other means that ensures delivery so as to reach the Returning Officer at least seven (7) days prior to the Annual General Meeting. The Returning Officer shall provide each member with a receipt upon delivery of his nomination.
- (v) 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 his finding a

defect in a nomination he/she shall, before rejecting the nomination, notify the person concerned of the defect, and, where it is practicable to do so, give him/her the opportunity of remedying the defect within seven (7) days of his having been so notified.

- (vi) If more than sufficient candidates are nominated an election shall be held.
 - (vii) The Returning Officer shall obtain sufficient ballot papers for the election and shall make arrangements so as to enable members to vote at the Annual General Meeting.
 - (viii) The Returning Officer shall initial all ballot papers which shall not bear any other distinguishing mark.
 - (ix) Any member of the Sub-Branch who will not be present at the Annual General Meeting may lodge with the Returning Officer, at any time after the closing date for nominations and before the Annual General Meeting commences, a written request for an absentee vote. On the receipt of such a written request, the Returning Officer will promptly provide the appropriate absentee voting form to the member. This absentee voting form shall be completed by the member and submitted to the Returning Officer prior to the commencement of the Annual General Meeting. All absentee votes so received shall be counted by the Returning Officer at the Annual General Meeting.
 - (x) In the cases of an equality of votes for two (2) or more candidates the Returning Officer shall determine by drawing lots which of the members is elected.
 - (xi) Any candidate at any such election may appoint a scrutineer who shall be entitled at the expense of the candidate to be present at all stages of the ballot.
 - (xi) The Returning Officer shall declare the result of the ballot following the count which includes any absentee votes received at the Annual General Meeting and all persons elected shall occupy their positions forthwith.
- (e) There shall be a General Meeting of each Sub-Branch at least once in each quarter for the payment of contributions and other general business, except in cases where the Union Committee sanctions the holding of meetings less frequently. Members of each Sub-Branch shall attend all general meetings of the Sub-Branch, at which non- members shall not be admitted. An Annual General Meeting of the Sub-Branch shall be held each year in the month of February, March or April, at which nominations shall be received and an election take place for the committee of the Sub-Branch.

The committee of a Sub-Branch may at any time direct the Secretary to call a Special General Meeting of the Sub- Branch.

At least seven (7) days notice in writing on notice boards accessible to all members of the Sub-Branch shall be given by the Sub-Branch Secretary to members of the date set for general meetings or special meetings with the exception on Annual General Meetings where twenty-one (21) days notice shall be given.

- (f) The Committee of a Sub-Branch may meet once every calendar month. Such meetings will be called by the Secretary by notice in writing to members of the Sub-Branch committee. The President of the Sub-Branch may, however, at any time instruct the Secretary to summon a special meeting of the Committee.
- (g) All moneys collected by Sub-Branches shall be forwarded to the Assistant Secretary-Treasurer within two (2) weeks after each general meeting of the Sub-Branch, together with a statement showing the names of the members making such payments and the amount so paid.
- (h) Each Sub-Branch may adopt by-laws for its own conduct and guidance provided that such by-laws are not inconsistent with any of the Rules of the Union and are first approved by the Union Committee. Such by-laws may be altered, added to, amended or rescinded by a simple majority vote of members at an Annual or Special General Meeting of the Sub-Branch, provided that such alterations, additions, amendments or rescissions must be approved by the Union Committee.
- (i)
 - (i) The President shall preside at all meetings conducted by the Sub-Branch and will preserve good order so that business may be conducted properly.
 - (ii) He/she shall see that minutes of the meeting are read and confirmed and upon such reading and confirmation sign the same.
 - (iii) The President shall have a deliberate vote only.
 - (iv) The Vice-President shall assist the President, and shall in his/her absence exercise the power of the President.
- (j) The Secretary shall attend all meetings and prepare documents for the Sub-Branch and committee meetings. He/she shall conduct and file all correspondence, summon members to meetings of the Sub-Branch committee and members of the Sub-Branch to the quarterly meeting. He/she shall submit to the President, any urgent information he/she may officially receive and the President, together with the Secretary, shall decide upon the best course to be proceeded with until the next meeting of the Sub-Branch committee. He/she shall keep a register of the names and addresses of the representatives and members of the Sub- Branch.
- (k) Subject to the resolutions and the decisions of the Union Council and of the Union Committee, the meetings of the Sub-Branch shall have the general control and conduct of the business of the Sub-Branch and decisions of the meetings shall bind all members of the Sub-Branch.



- (l) Casual vacancies occurring in the positions of President, Vice-President, Secretary or member of the committee of the Sub-Branch shall be filled by the Sub-Branch committee from members of the Sub-Branch who would be eligible to nominate for the vacant position at an annual election. Such person shall only hold such position until the following election.
- (m) No member of the Sub-Branch committee shall be dismissed unless a resolution is passed by a majority of members at an ordinary or Special General Meeting of the Sub-Branch convened for the purpose, finding him/her guilty, in accordance with these Rules, of misappropriation of the funds of the Union, a substantial breach of the Rules of the Union, gross misbehaviour or gross neglect of duty, or finding that he/she has ceased, according to these Rules, to be eligible to hold his position.
No such motion will be moved unless the member concerned has been given fourteen (14) days' notice in writing of the intention to move a resolution charging him/her with an offence, the alleged grounds for such resolution and the time, date and place of the meeting at which he shall be given the opportunity to be heard.
- (n) This Rule shall be reviewed by the Union Council prior to 1 April 2014.

35. ORDER OF DEBATE

- (1) The first member who attracts the attention of the President shall have precedence in speaking.
- (2) Members addressing the meeting shall direct their remarks to the Presiding Officer, and shall remain standing while so doing.
- (3) No discussion shall take place on any motion unless such motion is duly proposed and seconded. Any number of amendments may be proposed. Motions or amendments which are vague or ambiguous should not be accepted by the Chairman. Amendments must be relevant to the motion and not amount to a direct negative. They must be handed to the Chairman in writing and be read to the meeting.
- (4) When a motion shall have been duly proposed and seconded, the Chairman shall at once proceed to take the votes thereon, unless some member rises to oppose or propose an amendment. Any number of amendments may be proposed and shall be discussed together. No discussion shall take place nor any amendment be moved after the mover of the original motion has replied. Amendments shall, where possible, be put to the vote in the order in which they affect the terms of the motion (otherwise, in the order in which they were moved). As amendments are carried, the motion shall be progressively altered accordingly. The motion in its final amended form shall then be put to the meeting.
- (5) No more than two members shall speak in succession on the one side, either for or against any question before the meeting, and if at the

conclusion of the second speaker's remarks no member rises to speak on the other side, the motion or amendment shall be at once put to the meeting.

- (6) It shall be competent at any time during a debate for a member who has not already spoken to the question before the chair to move without discussion that the question be now put which, on being duly seconded and carried, shall entail the submission of the motion to the meeting, after the mover has replied.
- (7) No member, except the mover, shall speak more than once on the same motion, except in explanation.
- (8) No member shall be allowed more than five minutes to speak on a motion, except with the concurrence of the meeting.
- (9) The mover shall have the privilege of reply after which the motion shall be forthwith put to the meeting.
- (10) Should any question have occupied the attention of the meeting for twenty minutes, the discussion on such shall be deemed to have closed, and the Chairman shall forthwith call on the mover to reply, unless the meeting decides by resolution (carried by a majority of the members present) to continue discussion on the matter in question.
- (11) In the event of the Chairman desiring to speak to any question, he/she shall vacate the chair for the duration of the debate on that question.
- (12) Questions of order shall be decided by the Chairman whose ruling shall be final, unless it is challenged by a formal motion submitted to the meeting.
- (13) Any member dissatisfied with the ruling of the Chairman may move a motion of dissent as follows:

"That the Chairman's ruling be dissented from". The motion shall then be put to the meeting by the Vice- Chairman without discussion in the following manner.

"The question is 'That the Chairman's ruling be upheld'. Those in favour of upholding the Chairman's ruling say "Aye", those against the Chairman's ruling say "No".

The mover only shall speak on the motion, except the Chairman, who may explain his reasons for the ruling given. The Vice-Chairman shall not give a ruling for the question involved in the Chairman's ruling.

- (14) A motion for the adjournment of any business of any meeting may be proposed at any time (without discussion) during any such meeting and shall be put to the meeting by the Chairman.

Such adjournment shall follow if carried by the majority of the members present.

36. AREA COMMITTEE

- (a) Area Committees may be formed in the North, Far North, South and West of New South Wales subject to Union Committee approval.
- (b) Areas to be covered by Area Committees will be determined by the Union Committee.
- (c) Committees shall consist of two (2) representatives from each Sub-Branch within the area of the Area Committee, who shall be elected by the members in each Sub-Branch. Such election shall take place at the Annual General Meeting of the Sub-Branch and shall be conducted by the Returning Officer and Scrutineers appointed pursuant to Rule 34. The provisions of that Rule governing the election of members of the Sub-Branch committee will govern the election of Sub-Branch representatives to Area Committees.
- (d) The Executive of the Committee shall consist of a President, Vice-President, Secretary and three (3) others who shall be elected annually by and from the members of the Committee.

This election will take place at the first meeting of the Area Committee after the end of the month of January. The Area Committee shall appoint a Returning Officer and two (2) Scrutineers to conduct the election. The qualifications governing the appointment of a Returning Officer and Scrutineers contained in Rule 34 shall apply mutatis mutandis. The provisions governing the election of Sub-Branch committees contained in Rule 34, shall govern the election of the Executive of the Area Committee. The duties and functions of the President, Vice-President, Secretary and members of the Executive of the Area Committee will be those duties and functions of the President, Vice- President, Secretary and members of Sub-Branch committees as set out in Rule 34.

The Secretary and the Assistant Secretary-Treasurer shall be ex officio members of the Area Committee and its Executive. A quorum for the Committee, excluding the Secretary and the Assistant Secretary-Treasurer, shall be not less than seven (7) and a quorum for the Executive shall be not less than four (4).

- (e) Area Committees shall meet quarterly, or at such other times as it shall decide, provided that the President of the committee may at any time instruct the Secretary to summon a Special Meeting of the Committee or Executive.
- (f) All legitimate expenses incurred in the operation of the Area Committees shall be borne by the Union to the extent of not exceeding 5% of the total contributions received from the institutions within the area covered by the said Committee.
- (g) The aims and objects of the Area Committees shall be:
 - (1) to unite and consolidate Union members in their area,

- (2) to organise and build up the various Sub-Branches needing assistance,
 - (3) to assist the Union officials in policing awards, investigating petty victimisation, interviewing representatives of any Sub-Branch, or employers on behalf of any member,
 - (4) the Area Committees may discuss matters that concern the Union as a whole with a view to making concrete general and organisation proposals and submit these to the Union Committee,
 - (5) the Area Committees shall duly report all their actions and proposals to the Union Committee and whose decision on any matter shall be binding on the Area Committees.
- (h) Area Committees, or their Executives, shall have no power to alter or rescind Rules or to enforce or perform functions in relation to the enforcement of Rules, or to exercise any of the functions of management.

37. UNION OMBUDSMAN

The Union Council shall, each year, appoint the Union Ombudsman. Any financial member of the Union may raise a complaint with the Ombudsman over the actions of a sub branch official, elected Officer or paid official or non sub branch representative. The Ombudsman shall investigate and report to the Union Council any alleged impropriety or misdemeanour that a Sub-Branch Committee member, elected Officer or paid official of the Union is alleged to have committed.

In any such report, the Ombudsman shall include his/her conclusions as to the validity of any allegations, as well as recommendations for action to be taken by Union Council if any action is deemed necessary by the Ombudsman.

Any reports from the Ombudsman will be provided to the party alleging the impropriety and the party under investigation prior to the report being considered by Union Council. Where such a report recommends action be taken against any party, such party shall be afforded the opportunity to respond and put their case to the Union Council before action is considered by Union Council.

Any allegations made against the Union Ombudsman shall be the subject of investigation by not less than three members of the Union Council

38. AUDIT AND COMPLIANCE COMMITTEE

- (a) The Union shall have an Audit and Compliance Committee comprising the President, Secretary, Assistant Secretary-Treasurer and four (4) members of Union Council appointed by the Union Council.
- (b) The Audit and Compliance Committee shall prepare budget and cash forecasts, closely examine financial statements on a regular basis and monitor and protect the funds and property of the Union.

- (c) The Audit and Compliance Committee shall meet on a monthly basis and provide monthly written reports of its activities to the Union Committee

39. GENERAL MEETINGS

- (a) An Ordinary General Meeting of the Union may be called at any time on a resolution of the Union Committee.
- (b) A Special General Meeting of the Union shall be called by the President or the Secretary upon receipt by him/her of a request signed by not less than two hundred (200) financial members or five (5) per cent of the members of the Union, whichever is the lesser amount. Such request 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 his or her signature.
- (c) Not less than one (1) month's written notice of the time, place and agenda of all General Meetings shall be given to each shop steward of the Union. Providing that when a matter requires immediate attention such lesser notice of a Special General Meeting as may be determined by the Union Committee may be given.
- (d) A Special General Meeting shall not be competent to deal with any matter other than the reason set out by the petition of members or the notification of such meeting as has been given by the Union Committee.
- (e) Any Ordinary General Meeting or Special General Meeting shall be held at such time and place as shall be determined by the Union Committee, but should such Special General Meeting be called under the provisions of sub-Rule (b) it shall be held not later than thirty-five (35) days following the receipt of the petition by the President or Secretary .
- (f) No General Meeting of members shall have power to direct the Union Committee or Union Council or reject or review a decision of the Union Committee or Union Council unless at least two hundred (200) members or five (5) per cent of the financial members of the branch (whichever amount is the lesser) are present at the meeting.
- (g) The quorum for meetings of the Union held in accordance with this Rule shall be twenty-five (25) financial members.
- (h) Notwithstanding the foregoing:
 - (i) The Union may call a general meeting of members by way of a series of general meetings of members at different locations.

- (ii) For the convenience of facilitating member attendance, video conferencing or any other electronic means as may be available from time to time may be used for the series of general meetings.
- (iii) At the series of general meeting, the President or a Vice-President shall preside. All members of the Union shall be entitled to attend and vote.
- (iv) The general meeting is taken to have occurred at the time of the last of the meetings in the series.
- (v) Quorum shall be calculated by reference to the total number of members attending the series of general meetings. Voting shall be decided by the majority of those members present at the series of general meetings.

40. UNION POLICIES AND PROCEDURES

- (a) The Union shall develop and implement internal control policies and procedures relating to the expenditure of the Union and to ensure that the Union is conducted in accordance with the principles of good governance and to ensure accountability to members of the Union. The Union shall also develop and implement policies and procedures to ensure that the Union is representative of and accountable to its members, will be able to operate effectively, will encourage members to participate in the affairs of the Union and to encourage the democratic functioning and control of the Union.
- (b) Such policies and procedures shall be adopted by the Union Council and once adopted shall be binding on all officers and members of the Union. Such policies and procedures must be identified in the resolutions of the Union Council as Rule 40 – Union Policies and Procedures.
- (c) Rule 40 - Union policies and procedures must be published on the website of the Union within fourteen (14) days of their adoption.
- (d) Rule 40 - Union policies and procedures once adopted may only be altered, amended, or revoked by a resolution duly passed by not less than 70% of all members of the Union Council. Provided that where the Union Council so alters, amends or revokes this Rule, such alteration, amendment or revocation may be rescinded by a plebiscite of the Union in accordance with Rule 28.
- (e) Notwithstanding anything appearing elsewhere in these Rules, this Rule may only be altered, amended or revoked by a resolution passed by not less than 70% of all members of Union Council. Provided that where the Union Council so alters, amends or revokes this Rule, such alteration, amendment or revocation may be rescinded by a plebiscite of the Union in accordance with Rule 28. Provided that nothing within this sub-rule limits the operation of Rule 28 generally.

41. DISCLOSURE BY OFFICERS OF REMUNERATION AND NON-CASH BENEFITS

- (a) Each person holding an office in the Union shall disclose to the Union Committee any remuneration paid to the officer:
- (i) because the officer is a member of, or holds a position with, a board or other organisation, if:
 - (A) the officer holds such a position with the board or other organisation only because the officer is an officer of the Union; or
 - (B) the officer was nominated for the position by the Union or a peak council; or
 - (ii) by any third party, in connection with the performance of the officers' duties as an officer.
- (b) The disclosure required by sub-rule (a) shall be made to the Union Committee:
- (i) as soon as practicable after the remuneration is paid to the officer; and
 - (ii) in writing.
- (c) The Union Committee shall disclose to the members of the Union:
- (i) the identity of each officer of the Union who receives remuneration from the Union in connection with their holding of office during the disclosure period, and
 - (ii) all disclosures made by officers of the Union pursuant to sub-rule (a); and
 - (iii) for those officers:
 - (A) the actual amount of the officers' relevant remuneration for the disclosure period; and
 - (B) the value of, and the form of the officers' relevant non cash benefits for the disclosure period.
- (d) For the purposes of sub-rules (c), the disclosure shall be made:
- (i) in relation to each financial year;
 - (ii) within three (3) months after the end of the financial year; and
 - (iii) in writing and published on the Union website.

42. DISCLOSURE BY OFFICERS OF PERSONAL INTEREST

- (a) Each person holding an office in the Union shall disclose to the Union Committee any material personal interest in a matter that:
- (i) the officer has or acquires; or
 - (ii) a relative of the officer has or acquires;
- that relates to the affairs of the Union.
- (b) The disclosure required by sub-rule (a) shall be made to the Union Committee:
- (i) as soon as practicable after the interest is known or acquired; and
 - (ii) in writing.
- (c) The Union Committee shall disclose to the members of the Union the interests disclosed to the Union pursuant to sub-rules (a).
- (d) For the purposes of sub-rule (c), the disclosures shall be made:
- (i) in relation to each financial year;
 - (ii) within three (3) months after the end of the financial year; and
 - (iii) in writing.

43. DISCLOSURE BY UNION OF PAYMENTS

- (a) The Union shall disclose to the members of the Union:
- (i) each payment made by the Union, during the disclosure period:
 - (A) to a related party of the Union; or
 - (B) to a declared person or body of the Union.
 - (ii) the total of the payments made by the Union, during the disclosure period:
 - (A) to each related party of the Union; or
 - (B) to each declared person or body of the Union.
- (b) Sub-rule (a) does not apply to a payment made to a related party if the payment consists of amounts deducted by the Union from remuneration payable to officers or employees of the Union.
- (c) For the purposes of sub-rule (a), the disclosures shall be made:

- (i) in relation to each financial year;
- (ii) within three (3) months after the end of the financial year; and
- (iii) in writing and published on the Union website.

44. TRAINING OF OFFICERS OF THE UNION

- (a) This Rule shall take effect on the commencement of Schedule 1 Part 2 of the Fair Work (Registered Organisations) Amendment Act 2012 (Cth).
- (b) Each person holding an office in the Union whose duties include duties that relate to the financial management of the Union shall undertake training:
 - (i) approved by the General Manager under the provisions of the Fair Work (Registered Organisations) Act 2009 (Cth) or an Act replacing that Act; and
 - (ii) that covers each of the officers' financial duties.
- (c) An officer shall complete the training required by sub-rule (b) within:
 - (i) six (6) months after the person begins to hold office; or
 - (ii) if the officer holds office at the date of the Proclamation referred to in sub-rule (a), within six (6) months of that date.

End of rules.