

DECLARATION OF AUTHORISED OFFICER in accordance with Regulation 126 *Fair Work (Registered Organisations) Regulations 2009*

ALTERATION OF OTHER RULES OF ORGANISATIONS in accordance with section 159 of the *Fair Work (Registered Organisations) Act 2009*

I, Angela Louise Smith, of Level 3/53 Blackall Street Barton ACT, am the President of the Australian Federal Police Association Branch of the Police Federation of Australia and am authorised to give this notice of particulars of alterations to the rules of the Australian Federal Police Association Branch of the Police Federation of Australia and to make this declaration as required by Regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009*.

1. I declare that the alterations were made in accordance with the rules of the Australian Federal Police Association Branch of the Police Federation of Australia.
2. The particulars of the rule alterations are attached to this declaration and labelled 'Schedule A'.

Relevant Rules

3. The relevant Rules of the AFPA in connection with the alteration of those rules are Rule 76 ("Meetings of Branch National Council"), 79 (Matter Requiring Decision Between National Council Meetings) and Rule 101 ("Making or Alteration of Association Rules"). I refer to these Rules without reproducing them in this declaration. Any reference hereafter to "the Rules" or a Rule is a reference to the Rules of the AFPA as at the date the alterations being made.

Action taken under the rules to make the subject alterations

4. On 24 January 2020, notice was provided to all delegates of the National Council by the Branch Secretary/Treasurer of a Special Branch National Council at the respective email addresses advised by each such member to the AFPA advising them of the time, date and location of the Special Branch National Council. Attached hereto and marked AS1 is a true copy of that Notice.
5. This Special National Council was scheduled to be conducted on 24 March 2020, however, the Special National Council was rescheduled due to government restrictions.
6. On 20 May 2020, further notice was provided to all delegates of the National Council by the Branch Secretary/Treasurer of a Special Branch National Council at the respective email addresses advised by each such member to the AFPA advising them of the time, date and location of the Special Branch National Council. Attached hereto and marked AS2 is a true copy of that email .
7. This email included an attachment detailing proposed alterations to the AFPA Rules

pursuant to Rule 101 of the Rules. Attached hereto and marked AS3 is a true copy of that Notice.

8. This email included a further attachment outlining the agenda for that meeting. Attached hereto and marked AS4 is a true copy of that Agenda. The Agenda included at Agenda Item 2 notice of proposed alterations to the Rules pursuant to Rule 101 of the Rules.
9. The said National Council meeting took place electronically on Thursday 25 June 2020 pursuant to Rule 79(3) of the Rules. I was the Chair of the Special National Council meeting in my capacity as President of the Australian Federal Police Association Branch of the Police Federation of Australia.
10. The proposed alteration of the Rules of the AFPA were dealt with during proceedings of the Special National Council.
11. Attached hereto and marked AS5 is a true copy of the draft minutes of said Special National Council meeting. In connection with these draft minutes I say as follows:
 - a. While those draft minutes cannot be signed as a true and correct by the President until they have been approved by the next meeting of the Branch National Council, I have read them and I believe they are true and correct;
 - b. The meeting was at all times quorate in accordance with Rule 76;
 - c. The text of the resolutions adopting the alterations to the Rules are correctly recorded in item 2;
 - d. Voting on all resolutions, including the relevant resolution, was electronically recorded and each resolution was declared carried in accordance with Rule 101 (1) which requires a simple majority.
12. In accordance with regulation 126(a) a copy of this notice will be published on the AFPA website by no later than Friday 3 July 2020.
13. A copy of the alterations will be provided to the Chief Executive Office of the Police Federation of Australia within 7 days of this application being lodged.
14. A copy of this notice will be provided to the Executive within 7 days of this notice being lodged.
15. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.



Angela Smith President
30 June 2020

From: AFPA <afpa@afpa.org.au>
Sent: Friday, 24 January 2020 3:57 PM
To: Vince Kelly
Subject: SNC Notice Secretary-Treasurer



Notice of Special National Council – Rule 76 (2) AFPA Branch Rules

Notice of Proposed Alterations of AFPA Branch PFA Rules – Rule 101 PFA Branch Rules

All members of the National Council are advised that a Special National Council meeting shall be conducted at 9 am on Tuesday 24 March 2020.

The venue for the meeting is the West End Room, The Boathouse, Grevillea Park, Menindee Drive, Barton ACT

The meeting shall commence at 9am.

The meeting has been convened by resolution of the AFPA Branch Executive pursuant to Rule 76(2) of the AFPA Branch PFA Rules.

This notification is issued pursuant to Rule 76(3) of the AFPA Branch PFA Rules.

The Order of Business for the Special National Council is as follows:

9.00am – 9.30am – Opening Session

Housekeeping/Attendance/Rules of Debate

MC – Alex Caruana – Vice President, AFPA

Welcome

Angela Smith, President AFPA

9.30am – 11am – Session One

Essential Media – Campaigning

11am – 11.30am – Morning Tea

11.30am – 1pm – Session Two

EA 2021

- Deputy Commissioner Guaghan (11.30 – 12.15)
- AFPA Secretary/Treasurer & Staff (12.15 – 1pm)

1pm – 1.45pm Lunch

1.45pm – 3pm Session Two continued

3pm – 3.15pm Afternoon Tea

3.15pm – 5pm Session Three

- Branch Rule Amendments
- Legal Assistance Scheme

Pursuant to Rule 101 (2) of the AFPA Branch PFA Rules National Council delegates are advised that the following resolutions to alter or change the rules of the Branch will be considered at the Special National Council Meeting on 24 March 2020:

PROPOSED ALTERATIONS TO THE RULES OF THE ASSOCIATION

1. In the heading to Division 2 of Chapter 3, insert the words “Association Executive” before the word “Officers”
2. Alter the heading to Rule 72 by deleting the words “Officers of the” and inserting after the word “Association” the words “Executive Officers”.
3. Delete the contents of sub Rule (11) of Rule 72 and insert the following in their stead:

“All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary except:
a) for the office of President as prescribed by Rule 82; and
b) any office to which Rule 83 applies where the Executive resolves that such office be a paid position, and subject to any conditions contained in such resolution.”
4. Alter sub Rule (1) paragraph (a) of Rule 74 by inserting in that paragraph the word “Association” before the words “Executive Officers”, and deleting the words “of the Association”.
5. Alter sub Rule (3) of Rule 74 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
6. Alter sub Rule (5) of Rule 75 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
7. Alter sub Rule (1) of Rule 80 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
8. Alter sub Rule (6) of Rule 81 by deleting the word “members” in the second sentence and inserting the word “Members” in its stead.
9. Alter Rule 82 by adding new sub Rules (3) and (4) in the following terms:

“3) In addition to the foregoing obligations, the President shall undertake full time the role of being principal spokesperson and public representative of the Association, with the principal place for the performance of those duties being at and from the location of the National Office as determined pursuant to Rule 54.
4) The Office of President shall be a full time paid position on terms and conditions prescribed by resolution of the National Executive from time to time.”

10. Alter Sub Rule (1) of Rule 83 by deleting the second sentence of that sub Rule and inserting the following words in its stead:

“Provided that:

 - a) if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive Members to act as Vice President until either that Officer or the President becomes available; or
 - b) if the President is unavailable for any reason and the Vice President either advises the General Manager in writing that they are unwilling to assume the duties of President or fails to take up those duties within seven (7) days of the requirement to do so arising, the Executive may appoint another member of the Executive to act as President until the President becomes available.”
11. Further alter Rule 83 by adding new Sub Rule (3) in the following terms.

“(3)The Executive may resolve that any office to which this Rule relates shall be a paid position, provided that any such resolution must specify:

 - a) whether the position is full time or part time, and if the latter the hours and/or days of work;
 - b) the duties of the paid position;
 - c) the principal place at or from which the duties are to be performed;
 - d) the duration of the paid position; and
 - e) the terms and conditions for the position, including remuneration,

PROVIDED THAT:

 - f) The principal place at or from which the duties are performed shall be the National office as determined pursuant to Rule 54, unless the Executive resolves otherwise; and
 - g) Any such resolution may be altered or rescinded at any time by the Executive, on not less than thirty (30) days notice to any incumbent.
12. Alter sub Rule (1) of Rule 85 by deleting the first sentence of that sub Rule and inserting the following words in its stead:

“Subject to the provisions of this Division the Executive of the Association may from time to time establish Zones of the Association.”
13. Alter sub Rule (1) paragraph (a) of Rule 94 by deleting the word “and” where third occurring in the first sentence of that paragraph and inserting in its stead the words:

“or the conclusion of the National Council meeting at which they were elected, whichever is the later. They”.
14. Alter sub Rule (1) paragraph (b) of Rule 94 by deleting the first two sentences of that paragraph and inserting the following words in its stead:

“The Vice President, Secretary/Treasurer and the Six Executive members shall be elected by secret ballot by and from the National Council. The persons so elected shall take office from the declaration of their election or the conclusion of the National Council meeting at which they were elected, whichever is the later. Commencing from the elections to be conducted in 2021, they shall hold office for a period of four years or until a successor thereto has been elected and taken office.”
15. Further alter sub Rule (1) paragraph (b) of Rule 94 by inserting in the last sentence of that paragraph the word “second” after the word “every” and before the word “biennial”.
16. Delete sub Rule (1) (c) of Rule 94.
17. Alter sub Rule (2) paragraph (a) of Rule 94 by deleting the word “member” where first occurring in that paragraph and inserting in its stead the word “Member”.
18. Alter sub Rule (3) paragraph (a) of Rule 94 by deleting the word “members” in the first sentence and inserting in its stead the word “Members”.
19. Alter sub Rule (3) paragraph (d) of Rule 94 by deleting the contents thereof and inserting the following in their stead:

“Pursuant to sub Rule (1) of this Rule the election of the Association Executive Officers shall be held during the National Council meeting occurring in an election year during the period of such a year prescribed by sub Rule (1) of Rule 76.

20. Further alter sub Rule (3) of Rule 94 by deleting the contents of paragraph (j) and inserting the following in their stead:

“If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows.

(A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.

(B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.

(C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present.

The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw.”

21. Alter sub Rule (5) paragraph (b) of Rule 95 by deleting from that paragraph the word “Zone” and inserting the word “Branch” in its stead.
22. Alter sub Rule (5) of Rule 95 by inserting after paragraph (b) and before paragraph (c) of that sub Rule new sub Rule (bA) in the following terms:

“(bA) Nominations may be withdrawn up to and including 5 working days after the time and date the Returning Officer has declared that nominations shall close. The withdrawal of such nomination shall be in the form determined by the Returning Officer and shall be signed by the nominee.”

23. Alter sub Rule (5) paragraph (k) of Rule 95 by:
- Inserting a full stop at the end of sub paragraph (c); and
 - Deleting sub paragraph (d).
24. Alter sub Rule (2) paragraph (a) of Rule 96 by deleting the word “member” in the fifth line of that paragraph and inserting the word “Member” in its stead.
25. Further alter Rule 96 by deleting sub Rules (3) and (4) in their entirety and renumbering sub Rule (5) as Sub rule (3).
26. Alter sub Rule (2) paragraph (d) in Rule 97 by deleting from that paragraph the word “members” and inserting the word “Members” in its stead.
27. Alter sub Rule (2) of Rule 101 by deleting the word “Notice” at the commencement of the sub Rule and inserting in its stead the following words:
“Notwithstanding the provisions of Rule 76 (3) and Rule 79 (5) of these Rules, notice”.
28. Further alter sub Rule (2) of Rule 101 by deleting therefrom the words “one month” and inserting the words “fourteen days” in their stead.
29. Alter sub Rule (3) of Rule 101 by deleting therefrom the word “President” in the first line and inserting the words “Secretary/Treasurer” in its stead.
30. Alter Rule 108 by deleting the words “the date of certification of this Rule” where each occurring in sub Rules (1) and (2) and inserting in their stead in each such sub Rule the words “24 May 2017”.

An explanatory memorandum in relation to the proposed rule alterations will be provided by 24 February 2020.

AFP Commissioner Reece Kershaw APM has verbally confirmed that members attending the Special National Council may do so without having to take recreational or personal leave. Members are encourage to speak to their supervisor and provide early notice of their intention to attend the Special National Council. In relation to time-recording, your attendance at the Special National Council should be recorded as 'ordinary hours', with a short text description of 'AFPA Duties'. If supervisors won't allow your release to attend the Special National Council, can you please notify the AFPA Office immediately (via afpa@afpa.org.au) so we can raise the issue with the AFP. Please include the details of your supervisor in the email so we rectify the issue promptly.

You will shortly receive via email your Special National Council RSVP/Attendance form. Please fill this form out and return it as soon as you practically can. This will ensure that we can book and confirm your flights and accommodation to attend this event.



Adrian Smith
Secretary Treasurer
Date: 24 January 2020

AFPA
3/53 Blackall Street, Barton,
[Unsubscribe - Unsubscribe Preferences](#)

From: Bob Clark on behalf of Adrian Smith
Sent: Wednesday, 20 May 2020 12:48 PM
To: Janeg.thompson@afp.gov.au; Patrick Castle; bridget.OSullivan@afp.gov.au; David Power; Mark Rowswell; Sue Smith; john.wong@afp.gov.au; John.hawkins@afp.gov.au; Martin.hess@afp.gov.au; Eric; Luke.houlihan@afp.gov.au; Mathew.tonge@afp.gov.au; hye.konig@afp.gov.au; simon.canfield@afp.gov.au; david.gooley@afp.gov.au; Michael.travers@afp.gov.au; doug.witschi@afp.gov.au; Joshua.schwartz@afp.gov.au; Jodie.green@afp.gov.au; Ellanor.pavlovich@afp.gov.au; grega.hinds@afp.gov.au; Aaron.dezilva@afp.gov.au; David.gale@afp.gov.au; Luke.read@afp.gov.au; Andrew Thorncraft; Julian.laycock@afp.gov.au; Simon Marriott; joel.goldring@afp.gov.au; Timothy.murphy@afp.gov.au; Tom.smith@afp.gov.au; Peter.slater@afp.gov.au; David.clark@afp.gov.au; Joshua.kinghorn@afp.gov.au; Justin Bateman; Jason Bryant; Jonathan Bedford; Nicholas.bryce@afp.gov.au; Brendan Castles; Daniel Rodriguez; lennon.thurtell@afp.gov.au; john.connoley@afp.gov.au; Clare.fitzpatrick@afp.gov.au; adrian.smith@afp.gov.au; vince.pannell@afp.gov.au; rod.higgins@afp.gov.au; Kane.johnson@afp.gov.au; Troy.gordon@afp.gov.au; scott.henderson@afp.gov.au
Cc: Bob Clark; National Executive Team
Subject: RE: AFPA - Special National Council 25 June 2020 - AFPA Delegate Invitation and Papers attached.
Attachments: SNC 2020 - Order of Business (Agenda) and Supporting Papers.pdf; SNC 2020 Delegate Notice.pdf
Importance: High

Dear Delegate,

The Executive of the AFPA has scheduled a **Special National Council (SNC) for the 25th of June 2020**. Please find attached the following documents for the SNC.

- SNC 2020 – Delegate Notice
- SNC 2020 – Order of Business (Agenda) and Supporting Papers

Register your attendance by the 29th of May 2020 via the SNC Registration Form:

<https://form.jotform.com/afpamedia/afpa-snc-form> . Please email Mr Bob Clark via bob.clark@afpa.org.au with any registration problems.

The Delegate Notice is provided pursuant to the AFPA Branch Rules and was previously circulated in preparation for the SNC scheduled for 24th of March 2020, which was cancelled due to COVID-19 restrictions.

I would encourage you to read all the documents prior to the 25th of June 2020 SNC.

If you have questions regarding the proposed rule changes or alterations to the Legal Assistance Scheme, please contact Mr Vince Kelly via vince.kelly@afpa.org.au. Vince and Bob can also be contacted on (02) 6285 1677.

During the SNC, we will be focusing on:

- Enterprise Agreement (EA) and likely next steps,
- Presentation by Mr Peter Lewis from Essential Research that will focus on the most recent AFPA survey results about your thoughts of the AFP and AFPA, and

- Required rule changes and amendments to the Legal Assistance Scheme

The AFPA President will be writing to Commissioner Kershaw requesting members be allowed to participate in the SNC during worktime. Given the fact that Commissioner Kershaw approved members to attend the originally proposed SNC, I don't envisage any issues in having approval granted this time around. If issues do arise, please email the AFPA office via afpa@afpa.org.au and we'll liaise with the AFP on your behalf to ensure your right to participate.

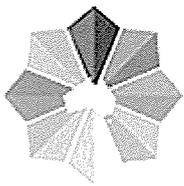
This SNC will be a first for the AFPA as we'll be utilising video conferencing technology - so there will be no requirement to travel.

As the SNC draws closer, and after you've submitted your *SNC Registration Form* (via: <https://form.iotform.com/afpamedia/afpa-snc-form>) confirming your attendance, you'll be sent an electronic invitation that will include a link that will enable you to participate in the conference.

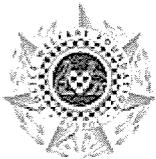
We encourage you to ensure that you have access to a computer or tablet to participate in the meeting, as it may be difficult to view documents and participate fully in the SNC from an iPhone or similar device.

Yours sincerely

Adrian



AFPA



ADRIAN SMITH

Secretary Treasurer

Australian Federal Police Association

P 02 6285 1677 E adrian.smith@afpa.org.au

A Level 3/53 Blackall Street, Barton ACT 2600
PO BOX 4576, Kingston ACT 2604

www.afpa.org.au

AUSPOL - Police Welfare Foundation is affiliated with the AFPA and is the preferred charity of the AFPA. The easiest way to donate to AUSPOL is to set up an ongoing payroll deduction to the Foundation on a fortnightly basis.

CBA Bank details: AusPol, BSB: 062-902 Account: 10365540

SECTION - AS3



Notice of Special National Council

Rule 76 (2) & Rule 79 (3) PFA – AFPA Branch Rules

Notice of Proposed Alterations of PFA – AFPA Branch Rules

Rule 101 PFA – AFPA Branch Rules

All members of the National Council are advised that a Special National Council meeting shall be conducted on Thursday 25 June 2020.

The meeting shall commence at 10.00 am.

The meeting will be conducted by way of “ZOOM” electronic conference and will be facilitated with the assistance of Essential Media.

You will shortly receive via email your Special National Council RSVP/Attendance form.

Please fill this form out and return it as soon as you practically can.

Login details will be provided to all delegates prior to the meeting.

The meeting has been convened by resolution of the AFPA Branch Executive pursuant to Rule 76(2) of the AFPA Branch PFA Rules.

This notification is issued pursuant to Rule 76(3) and Rule 101(2) of the PFA – AFPA Branch Rules.

Branch Rule Amendments

Pursuant to Rule 101 (2) of the AFPA Branch PFA Rules National Council delegates are advised that the following resolutions to alter or change the rules of the Branch will be considered at the Special National Council Meeting on 25 June 2020:

PROPOSED ALTERATIONS TO THE RULES OF THE ASSOCIATION

1. In the heading to Division 2 of Chapter 3, insert the words “Association Executive” before the word “Officers”

2. Alter the heading to Rule 72 by deleting the words “Officers of the” and inserting after the word “Association” the words “Executive Officers”.
3. Delete the contents of sub Rule (11) of Rule 72 and insert the following in their stead:

“All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary except:

 - a) for the office of President as prescribed by Rule 82; and
 - b) any office to which Rule 83 applies where the Executive resolves that such office be a paid position, and subject to any conditions contained in such resolution.”
4. Alter sub Rule (1) paragraph (a) of Rule 74 by inserting in that paragraph the word “Association” before the words “Executive Officers”, and deleting the words “of the Association”.
5. Alter sub Rule (3) of Rule 74 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
6. Alter sub Rule (5) of Rule 75 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
7. Alter sub Rule (1) of Rule 80 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
8. Alter sub Rule (6) of Rule 81 by deleting the word “members” in the second sentence and inserting the word “Members” in its stead.
9. Alter Rule 82 by adding new sub Rules (3) and (4) in the following terms:
 - “3) In addition to the foregoing obligations, the President shall undertake full time the role of being principal spokesperson and public representative of the Association, with the principal place for the performance of those duties being at and from the location of the National Office as determined pursuant to Rule 54.
 - 4) The Office of President shall be a full time paid position on terms and conditions prescribed by resolution of the National Executive from time to time.”
10. Alter Sub Rule (1) of Rule 83 by deleting the second sentence of that sub Rule and inserting the following words in its stead:

“Provided that:

 - a) if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive Members to act as Vice President until either that Officer or the President becomes available; or
 - b) if the President is unavailable for any reason and the Vice President either advises the General Manager in writing that they are unwilling to assume the duties of President or fails to take up those duties within seven (7) days of the requirement to do so arising, the Executive may appoint another member of the Executive to act as President until the President becomes available.”
11. Further alter Rule 83 by adding new Sub Rule (3) in the following terms.

“(3)The Executive may resolve that any office to which this Rule relates shall be a paid position, provided that any such resolution must specify:

- a) whether the position is full time or part time, and if the latter the hours and/or days of work;
 - b) the duties of the paid position;
 - c) the principal place at or from which the duties are to be performed;
 - d) the duration of the paid position; and
 - e) the terms and conditions for the position, including remuneration,
- PROVIDED THAT:
- f) The principal place at or from which the duties are performed shall be the National office as determined pursuant to Rule 54, unless the Executive resolves otherwise; and
 - g) Any such resolution may be altered or rescinded at any time by the Executive, on not less than thirty (30) days notice to any incumbent.

12. Alter sub Rule (1) of Rule 85 by deleting the first sentence of that sub Rule and inserting the following words in its stead:

“Subject to the provisions of this Division the Executive of the Association may from time to time establish Zones of the Association.”

13. Alter sub Rule (1) paragraph (a) of Rule 94 by deleting the word “and” where third occurring in the first sentence of that paragraph and inserting in its stead the words:

“or the conclusion of the National Council meeting at which they were elected, whichever is the later. They”.

14. Alter sub Rule (1) paragraph (b) of Rule 94 by deleting the first two sentences of that paragraph and inserting the following words in its stead:

“The Vice President, Secretary/Treasurer and the Six Executive members shall be elected by secret ballot by and from the National Council. The persons so elected shall take office from the declaration of their election or the conclusion of the National Council meeting at which they were elected, whichever is the later. Commencing from the elections to be conducted in 2021, they shall hold office for a period of four years or until a successor thereto has been elected and taken office.”

15. Further alter sub Rule (1) paragraph (b) of Rule 94 by inserting in the last sentence of that paragraph the word “second” after the word “every” and before the word “biennial”.

16. Delete sub Rule (1) (c) of Rule 94.

17. Alter sub Rule (2) paragraph (a) of Rule 94 by deleting the word “member” where first occurring in that paragraph and inserting in its stead the word “Member”.

18. Alter sub Rule (3) paragraph (a) of Rule 94 by deleting the word “members” in the first sentence and inserting in its stead the word “Members”.

19. Alter sub Rule (3) paragraph (d) of Rule 94 by deleting the contents thereof and inserting the following in their stead:

“Pursuant to sub Rule (1) of this Rule the election of the Association Executive Officers shall be held during the National Council meeting occurring in an election year during the period of such a year prescribed by sub Rule (1) of Rule 76.

20. Further alter sub Rule (3) of Rule 94 by deleting the contents of paragraph (j) and inserting the following in their stead:

“If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows.

- (A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.
- (B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.
- (C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw.”

20. Alter sub Rule (5) paragraph (b) of Rule 95 by deleting from that paragraph the word “Zone” and inserting the word “Branch” in its stead.

22. Alter sub Rule (5) of Rule 95 by inserting after paragraph (b) and before paragraph (c) of that sub Rule new sub Rule (bA) in the following terms:

“(bA) Nominations may be withdrawn up to and including 5 working days after the time and date the Returning Officer has declared that nominations shall close. The withdrawal of such nomination shall be in the form determined by the Returning Officer and shall be signed by the nominee.”

23. Alter sub Rule (5) paragraph (k) of Rule 95 by:

- a. Inserting a full stop at the end of sub paragraph (c); and
- b. Deleting sub paragraph (d).

24. Alter sub Rule (2) paragraph (a) of Rule 96 by deleting the word “member” in the fifth line of that paragraph and inserting the word “Member” in its stead.

25. Further alter Rule 96 by deleting sub Rules (3) and (4) in their entirety and renumbering sub Rule (5) as Sub rule (3).

26. Alter sub Rule (2) paragraph (d) in Rule 97 by deleting from that paragraph the word “members” and inserting the word “Members” in its stead.

27. Alter sub Rule (2) of Rule 101 by deleting the word “Notice” at the commencement of the sub Rule and inserting in its stead the following words:

“Notwithstanding the provisions of Rule 76 (3) and Rule 79 (5) of these Rules, notice”.

28. Further alter sub Rule (2) of Rule 101 by deleting therefrom the words “one month” and inserting the words “fourteen days” in their stead.

29. Alter sub Rule (3) of Rule 101 by deleting therefrom the word “President” in the first line and inserting the words “Secretary/Treasurer” in its stead.
30. Alter Rule 108 by deleting the words “the date of certification of this Rule” where each occurring in sub Rules (1) and (2) and inserting in their stead in each such sub Rule the words “24 May 2017”.

Attached to this notice is the Order of Business (Agenda) for the Special National Council.

Material relating to Agenda item one will be circulated prior to the meeting.

Explanatory papers and resolutions relating to proposed AFPA Rule changes (Agenda Item 2) and revised Legal Assistance Scheme (Agenda Item 3). *

While noting this meeting will be conducted electronically members attending the Special National Council may do so without having to take recreational or personal leave. Members are encouraged to speak to their supervisor and provide early notice of their intention to attend the Special National Council.

In relation to time-recording, your attendance at the Special National Council should be recorded as ‘ordinary hours’, with a short text description of ‘AFPA Duties’. If supervisors won’t allow your release to attend the Special National Council, can you please notify the AFPA Office immediately (via afpa@afpa.org.au) so we can raise the issue with the AFP. Please include the details of your supervisor in the email so we can rectify the issue promptly.



Adrian Smith
Secretary Treasurer
Date: 20 May 2020

* Please note this material was previously circulated in preparation for the Special National Council scheduled for 24 March 2020 that was cancelled due to COVID 19 Restrictions.

SECTION - AS4



AFPA

Australian Federal
Police Association

SPECIAL NATIONAL COUNCIL MEETING

Thursday 25 June

10.00 am – 12:30 pm

Via ZOOM Electronic Videoconference

AFPA Branch Rule 79 (3)



AFPA
Australian Federal
Police Association

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TAB 8	Discussion Paper - Legal Assistance Scheme
TAB 9	Attachment - Revised Legal Assistance Scheme

TAB 2 - ORDER OF BUSINESS



AFPA
Australian Federal
Police Association

TIME	SESSION DETAILS	SESSION LEADER(S)
10.00 am - 10.10 am	Opening Session	
	Welcome (including House Keeping/ apologies/Rules of Debate)	Angela Smith – President AFPA
10.10 am - 11.15 am	Agenda Item 1 - EA 2021	Essential Media Adrian Smith – Secretary/Treasurer AFPA Troy Roberts – Communications Manager
11.15 am – 12.00 pm	Agenda Item 2 – AFPA Rule Changes	Vince Kelly – General Manager
12.00 pm – 12.30 pm	Agenda Item 3 – AFPA Legal Assistance Scheme	Vince Kelly – General Manager

TAB 3 - ATTENDANCE REGISTER

AFFPA Convenors and Delegates

Jane Thompson	Community Policing Zone	Zone Convenor
Patrick Castle	Community Policing Zone	Workplace Delegate
Bridget O'Sullivan	Community Policing Zone	Workplace Delegate
David Power	Community Policing Zone	Workplace Delegate
Mark Rowswell	Community Policing Zone	Workplace Delegate
Sue Smith	Community Policing Zone	Workplace Delegate
John Wong	Community Policing Zone	Workplace Delegate
John Hawkins	Community Policing Zone	Workplace Delegate
Martin Hess	Canberra Zone	Zone Convenor
Eric Davies	Canberra Zone	Workplace Delegate
Luke Houlihan	Canberra Zone	Workplace Delegate
Mathew Tonge	Canberra Zone	Workplace Delegate
Nye Konig	Canberra Zone	Workplace Delegate
Simon Canfield	Canberra Zone	Workplace Delegate
David Gooley	Canberra Zone	Workplace Delegate
Mick Travers	Executive & International Zone	Zone Convenor
Doug Witschi	Executive & International Zone	Workplace Delegate
Joshua Schwartz	Forensics Zone	Zone Convenor
Jodie Green	Forensics Zone	Workplace Delegate
Ellanor Pavlovich	Intelligence Canberra Zone	Zone Convenor
Greg Hinds	New South Wales Zone	Zone Convenor
Aaron De Zilva	New South Wales Zone	Workplace Delegate
David Gale	New South Wales Zone	Workplace Delegate
Luke Read	New South Wales Zone	Workplace Delegate
Andrew Thorncraft	New South Wales Zone	Workplace Delegate
Julian Laycock	Northern Territory Zone	Zone Convenor
Simon Marriott	Protective Service Officers Zone	Zone Convenor
Joel Goldring	Protective Service Officers Zone	Workplace Delegate
Tim Murphy	Queensland Zone	Zone Convenor
Tom Smith	Queensland Zone	Workplace Delegate
Peter Slater	Queensland Zone	Workplace Delegate
David Clark	South Australia Zone	Zone Convenor
Joshua Kinghorn	Specialist Response Group Zone	Zone Convenor
Justin Bateman	Specialist Response Group Zone	Workplace Delegate
Jason Bryant	Victoria & Tasmania Zone	Zone Convenor
Jonathan Bedford	Victoria & Tasmania Zone	Workplace Delegate
Nicholas Bryce	Victoria & Tasmania Zone	Workplace Delegate
Brendan Castles	Victoria & Tasmania Zone	Workplace Delegate
Daniel Rodriguez	Victoria & Tasmania Zone	Workplace Delegate
Lennon Thurtell	Western Australia Zone	Zone Convenor
John Connoley	Western Australia Zone	Workplace Delegate

AFPA Executive

Angela Smith	Executive	President
Alex Caruana	Executive	Vice President
Adrian Smith	Executive	Secretary/Treasurer
Clare Fitzpatrick	Executive	Executive
Troy Gordon	Executive	Executive
Scott Henderson	Executive	Executive
Rod Higgins	Executive	Executive
Kane Johnson	Executive	Executive
Vince Pannell	Executive	Executive

AFPA Staff

NAME	
Vince Kelly APM	General Manager
Matthew Peterson	Manager Industrial & Legal
Troy Roberts	Media & Government Relations Manager
Brian McIver	Media and Communications Officer
Alex Caruana	Principal Organiser
Olivia Turner	Industrial Officer
Anish Prasad	Industrial Officer
Wendy Black	Industrial Officer
Maria Nazir	Industrial Officer
Chris Chilcott	Industrial Research Officer
Bob Muir	Membership Services Officer
Bob Clark	Business Services Administrator

TAB 4 - EA 2021



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PRESENTATIONS PROVIDED ON THE DAY:

National Council Discussion Paper

TO: National Council
FROM: Vince Kelly, General Manager
SUBJECT: Proposed AFP Rule Amendments & SNC
DATE: 14 November 2019



BACKGROUND

The current AFPA Rules were endorsed by a Special National Council conducted in November 2016 and subsequently finalised at the 2017 National Council.

The rule changes followed an extensive evaluation, review, and redrafting of the rules conducted by:

- Mr Peter Punch, (then Partner Carroll O’Dea)
- Mr Graeme Cooper, (then AFPA CEO)
- Mr Vince Kelly, (then AFPA Special Projects Officer)
- Mr Peter Remfrey, (then Secretary Police Association of NSW)

The impetus for this review was significant rule deficiencies identified in the AFPA structure, including an elected President and elected Chief Executive Officer. While not stipulated in the rules these positions were full time paid positions funded by the AFPA.

There were also six unpaid offices of Vice President drawn from functional areas of the AFP, namely:

- Vice President AFP ACT Operations Portfolio;
- Vice President AFP Chief Operating Officer Portfolio;
- Vice President AFP Close Operations Portfolio;
- Vice President AFP Executive & AFPA Associate Portfolio;
- Vice President AFP National Security Portfolio; and
- Vice President AFP Operations Portfolio

The approved rule changes included a number of functional administrative amendments, such as the establishment of 7 Chapters and the renumbering/relocation of clauses within the rules.

The most significant changes were to the structure of the National Executive (Rule 72) creating the current structure of:

- President, (4 year term)
- Vice President, (4 year term)
- Secretary/Treasurer, (2 year term)
- Six Executive members, (2 year term)

The position of Chief Executive Officer was abolished.

The rules do not mandate either the President or Vice President be full time paid positions, however, the Executive is able to make this determination, (**Rule 72(11)**).

The position of General Manager, appointed by the executive, was established with duties determined by the Executive, including delegation of some duties of the Secretary/Treasurer, (**Rule 107**).

The single office of Vice President was created to provide for an elected official to be available to assume the office of President in the event that the President was unable to carry out the functions of that office, and to “*carry out such duties and functions as allocated by the Executive from time to time*”, (**Rule 83**).

The provisions relating to the length of the term of office of Vice President and the requirement for a full-time role were driven by a number of factors, including:

- the circumstances of the leadership changes within the AFPA in 2015 and 2016;
- the evolving understanding of the governance requirements of the AFPA;
- the need to ensure the organisation was being led by an elected strategically focused Executive (board);
- the need to ensure the person responsible for the day to day management of the organisation could be directed in relation to performance and outcomes and, if required, be dismissed lawfully for inefficiency or misconduct; and
- the availability (and desire) of Mr Cooper to transition from CEO to another fulltime role within the AFPA.

At the time the rules were developed Mr Punch, Mr Kelly, and Mr Remfrey expressed a view that the proposed structure of the Executive, that is, with a full time President and full time Vice President, would potentially lead to a scenario not dissimilar to that which had been created by the previous Executive structure.

At the time the Executive determined to proceed with the option of a full time Vice President.

It should be noted that it was envisaged by the then Executive that the rules, and in particular, the structure of the Executive would be reviewed and potentially refined over time.

Mr Cooper was elected Vice President in March 2017 and commenced full time duties, however, he resigned from the position in January 2019.

On 9 May 2019, pursuant to the AFPA Rules, the Executive made the following determination in relation to the office of Vice President:

- *The Executive determine in accordance with Rule 72(11) that the role of Vice President shall be honorary and this determination be subject to review prior to 31 January 2021.*
- *The Executive will finalise an appointment to the casual vacancy of Vice President at the conclusion of the scheduled 2019 National Council/Zone Delegate elections.*

There was considerable discussion at this time in relation to the role of the Vice President and the structure of the current rules. There were a number of views expressed in support of the current role structures, however, a number of deficiencies were also identified due to the circumstances of the resignation and departure of Mr Cooper from that office in January 2019.

CURRENT SITUATION

An Executive workshop was conducted on 11 September 2019 facilitated by Mr Peter Remfrey with the assistance of the General Manager.

The Executive determined that the following structure would support the efficient operation of the AFPA;

- President (4 years)
- Vice President (4 years)
- Secretary/Treasurer (4 years)

- 6 Executive members (4 years)
- Mandate the President as a full-time role based at national office
- Capacity for Executive to determine that any of the other Executive positions would be paid full time and require that the position(s) operate from the National Office.

During the workshop the General Manager highlighted a number of other minor alterations to the rules that had been suggested by the Registered Organisations Commission and the Australian Electoral Commission.

Subsequent to the workshop, Mr Remfrey, the AFPA General Manager, and the AFPA Manager Legal & Industrial drafted a number of proposed rule changes to accommodate the Executive direction.

Mr Remfrey prepared a report in relation to the workshop and proposed rule alterations. These proposed rule alterations have been further considered by Mr Peter Punch, Special Counsel, Carroll & O’Dea who provided further advice and guidance.

On 14 November the National Executive approved all proposed rule changes to be referred to a Special National Council meeting to be conducted on 24 March 2020.

A summary of the proposed changes is as follows:

1. Division 2 Chapter 3 Heading – Administrative Change in title – Association Executive Officers
2. Heading Rule 72 – Administrative Change in title – Association Executive Officers
3. Rule 72 (11) – Establishes that all offices shall be honorary except for the office of President and also allows the Executive to determine another office may be a paid position
4. Rule 74 (1) – Administrative Change in title – Association Executive Officers
5. Rule 74(3) – Administrative Change in title – Association Executive Officers
6. Rule 75 (5) – Administrative Change in title – Association Executive Officers
7. Rule 80 (1) – Administrative Change in title – Association Executive Officers
8. Rule 81 (6) – Minor grammar correction
9. New Rule 82 (3) – Provides particulars of Presidents role
10. New 82 (4) – Establishes the President as a full-time office
11. Rule 83 (1) – Clarifies role of Vice President in absence of President and established mechanism to fill President role if VP unavailable
12. New Rule 83 (3) – Provides the Executive the capacity to determine other “offices” may be paid positions
13. Rule 85 (1) – Clarify that the Executive establishes zones
14. Rule 94 (1) (a) – Establishes four-year terms for all Executive positions
15. Rule 94 (1) (b) – Clarifies when Executive take office following election
16. Rule 94 (1) (c) – Rule deleted not required with above amendments
17. Rule 94 (2) (a) – Minor grammar correction
18. Rule 94 (3) (a) – Minor grammar correction

19. Rule 94 (3) (d) – Requires election to be held during the National Council not on day 2 after lunch
20. Rule 94 (3) (j) – Clarifies process for determining a tied ballot
21. Rule 95 (5) (b) – Minor grammar correction
22. Rule 95 (5) (bA) – New rule Clarifies period for withdrawal of nomination in electoral process
23. Rule 95 (5) (k) (d) – Rule deleted included in error during amendments March 2019
24. Rule 96(2) (a) – Minor grammar correction
25. Revised Rule 96 (3) – Deletion of rules 96(3) and 96 (4) not required and renumbering of 96 (5)
26. Rule 97 (2) (d) – Minor grammar correction
27. Rule 101 (2) – Provides consistency between this rule (rule alterations) and Rule 76 (3) and Rule 79 (5) (National Council Rules)
28. Rule 101 (2) – Provides consistency between this rule (notification period rule alterations) and Rule 77 (2) (Notification periods National Council)
29. Rule 101 (3) – Place responsibility for Rule notifications on Secretary/Treasurer consistent with other duties of that office
30. Rule 108 (1) and (2) – Inserts date of relevant rule certification, i.e., 24 May 2017, for transitional provisions

The proposed resolutions circulated on 24 January 2020 in accordance with Rule 101 are included at **Attachment A**.

A marked copy of the rules and changes is included at **Attachment B**.

RECOMMENDATIONS

1. The National Council adopt the rule alterations as tabled and endorse the relevant resolutions as circulated on 23 January 2020.

TAB 6



AFPA
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**PROPOSED AFPA RULE
CHANGES RESOLUTIONS**

PROPOSED ALTERATIONS TO THE RULES OF THE ASSOCIATION

1. In the heading to Division 2 of Chapter 3, insert the words “Association Executive” before the word “Officers”
2. Alter the heading to Rule 72 by deleting the words “Officers of the” and inserting after the word “Association” the words “Executive Officers”.
3. Delete the contents of sub Rule (11) of Rule 72 and insert the following in their stead:

“All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary except:

 - a. for the office of President as prescribed by Rule 82; and
 - b. any office to which Rule 83 applies where the Executive resolves that such office be a paid position, and subject to any conditions contained in such resolution.”
4. Alter sub Rule (1) paragraph (a) of Rule 74 by inserting in that paragraph the word “Association” before the words “Executive Officers”, and deleting the words “of the Association”.
5. Alter sub Rule (3) of Rule 74 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
6. Alter sub Rule (5) of Rule 75 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
7. Alter sub Rule (1) of Rule 80 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.
8. Alter sub Rule (6) of Rule 81 by deleting the word “members” in the second sentence and inserting the word “Members” in its stead.
9. Alter Rule 82 by adding new sub Rules (3) and (4) in the following terms:

“3) In addition to the foregoing obligations, the President shall undertake full time the role of being principal spokesperson and public representative of the Association, with the principal place for the performance of those duties being at and from the location of the National Office as determined pursuant to Rule 54.

4) The Office of President shall be a full time paid position on terms and conditions prescribed by resolution of the National Executive from time to time.”
10. Alter Sub Rule (1) of Rule 83 by deleting the second sentence of that sub Rule and inserting the following words in its stead:

“Provided that:

- c. a) if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive Members to act as Vice President until either that Officer or the President becomes available; or
- b) if the President is unavailable for any reason and the Vice President either advises the General Manager in writing that they are unwilling to assume the duties of President or fails to take up those duties within seven (7) days of the requirement to do so arising, the Executive may appoint another member of the Executive to act as President until the President becomes available.”

11. Further alter Rule 83 by adding new Sub Rule (3) in the following terms.

“(3)The Executive may resolve that any office to which this Rule relates shall be a paid position, provided that any such resolution must designate:

- a. whether the position is full time or part time, and if the latter the hours and/or days of work;
- b. the duties of the paid position;
- c. the principal place at or from which the duties are to be performed;
- d. the duration of the paid position; and
- e. the terms and conditions for the position, including remuneration,

PROVIDED THAT:

- f. The principal place at or from which the duties are performed shall be the National office as determined pursuant to Rule 54, unless the Executive resolves otherwise; and
- g. Any such resolution may be altered or rescinded at any time by the Executive, on not less than thirty (30) days notice to any incumbent.

12. Alter sub Rule (1) of Rule 85 by deleting the first sentence of that sub Rule and inserting the following words in its stead:

“Subject to the provisions of this Division the Executive of the Association may from time to time establish Zones of the Association.”

13. Alter sub Rule (1) paragraph (a) of Rule 94 by deleting the word “and” where third occurring in the first sentence of that paragraph and inserting in its stead the words:

“or the conclusion of the National Council meeting at which they were elected, whichever is the later. They”.

14. Alter sub Rule (1) paragraph (b) of Rule 94 by deleting the first two sentences of that paragraph and inserting the following words in its stead:

“The Vice President, Secretary/Treasurer and the Six Executive members shall be elected by secret ballot by and from the National Council. The persons so elected shall take office from the declaration of their election or the conclusion of the National Council meeting at which they were elected, whichever is the later. Commencing from the elections to be conducted in 2021, they shall hold office for a period of four years or until a successor thereto has been elected and taken office.”

15. Further alter sub Rule (1) paragraph (b) of Rule 94 by inserting in the last sentence of that paragraph the word “second” after the word “every” and before the word “biennial”.
16. Delete sub Rule (1) (c) of Rule 94.
17. Alter sub Rule (2) paragraph (a) of Rule 94 by deleting the word “member” where first occurring in that paragraph and inserting in its stead the word “Member”.
18. Alter sub Rule (3) paragraph (a) of Rule 94 by deleting the word “members” in the first sentence and inserting in its stead the word “Members”.
19. Alter sub Rule (3) paragraph (d) of Rule 94 by deleting the contents thereof and inserting the following in their stead:

“Pursuant to sub Rule (1) of this Rule the election of the Association Executive Officers shall be held during the National Council meeting occurring in an election year during the period of such a year prescribed by sub Rule (1) of Rule 76.
20. Further alter sub Rule (3) of Rule 94 by deleting the contents of paragraph (j) and inserting the following in their stead:

“If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows.

 - (A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.
 - (B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.
 - (C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw.”
21. Alter sub Rule (5) paragraph (b) of Rule 95 by deleting from that paragraph the word “Zone” and inserting the word “Branch” in its stead.
22. Alter sub Rule (5) of Rule 95 by inserting after paragraph (b) and before paragraph (c) of that sub Rule new sub Rule (bA) in the following terms:

“(bA) Nominations may be withdrawn up to and including 5 working days after the time and date the Returning Officer has declared that nominations shall close. The withdrawal of such nomination shall be in the form determined by the Returning Officer and shall be signed by the nominee.”

23. Alter sub Rule (5) paragraph (k) of Rule 95 by:
 - a. Inserting a full stop at the end of sub paragraph (c); and
 - b. Deleting sub paragraph (d).

24. Alter sub Rule (2) paragraph (a) of Rule 96 by deleting the word “member” in the fifth line of that paragraph and inserting the word “Member” in its stead.

25. Further alter Rule 96 by deleting sub Rules (3) and (4) in their entirety and renumbering sub Rule (5) as Sub rule (3).

26. Alter sub Rule (2) paragraph (d) in Rule 97 by deleting from that paragraph the word “members” and inserting the word “Members” in its stead.

27. Alter sub Rule (2) of Rule 101 by deleting the word “Notice” at the commencement of the sub Rule and inserting in its stead the following words:

“Notwithstanding the provisions of Rule 76 (3) and Rule 79 (5) of these Rules, notice”.

28. Further alter sub Rule (2) of Rule 101 by deleting therefrom the words “one month” and inserting the words “fourteen days” in their stead.

29. Alter sub Rule (3) of Rule 101 by deleting therefrom the word “President” in the first line and inserting the words “Secretary/Treasurer” in its stead.

30. Alter Rule 108 by deleting the words “the date of certification of this Rule” where each occurring in sub Rules (1) and (2) and inserting in their stead in each such sub Rule the words “24 May 2017”.

TAB 7



AFPA
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**AFPA BRANCH RULES
PROPOSED CHANGES**

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AUSTRALIAN FEDERAL POLICE ASSOCIATION BRANCH RULES

CHAPTER 1 – FOUNDATIONAL AND PRELIMINARY MATTERS

53 – ESTABLISHMENT AND NAME

- 1) There shall be and is a branch of the Police Federation of Australia by the name “Australian Federal Police Association”.
- 2) These Rules are the Rules of the branch referred to in Sub-Rule (1) of this Rule.
- 3) The branch referred to in this Rule is referred to as “the Association” but that expression does not affect the fact that it is a branch of the Federation.
- 4) The Rules of the Association as in force prior to the date of certification of this Rule (“the certification date”) shall cease to apply from the certification date except insofar as they conferred rights or imposed obligations on members or other persons or entities prior to the certification date.

54 – LOCATION OF OFFICE

The office of the Association shall be located in the Australian Capital Territory, at such place or places as the Executive shall from time to time determine.

55 – OBJECTS

The objects of the Association shall be:

- 1) To uphold the rights and to foster, protect and improve the rights and interests of members industrially and otherwise;
- 2) To obtain and secure for its members, the best possible conditions and proper and sufficient remuneration, and to guard them against any hardship, oppression or injustice in connection with their employment;
- 3) To take all necessary steps for the protection and safety of the members in the course of their occupation;
- 4) To take the necessary steps and actions under any industrial or other legislation, 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 a member’s employment;

- 5) To promote industrial peace by all amicable means, such as conciliation, arbitration, or by the establishment of permanent boards, or to assist in the settlement of disputes or grievances by just and equitable methods;
- 6) To foster co-operation and harmonious relations between its members and affiliates throughout Australia;
- 7) To form a Benevolent and Welfare Fund for the promotion of welfare and benevolent assistance for members;
- 8) To establish and maintain such publications as may be in the interest of the Association and/or its members;
- 9) To promote the interests and effective delivery of Federal and Australian Capital Territory Law Enforcement;
- 10) To protect our members from any malicious, capricious or malevolent behaviour directed against them within the context of their professional role;
- 11) To provide professional general association services to association members;
- 12) To provide legal and other assistance to financial members whenever and wherever considered necessary;
- 13) To raise funds by fees, contributions, levies and other forms of income and investment for the purposes of advancing the best interests of the members;
- 14) To assist members financially or by other lawful means and/or to co-operate with any other organisation or association;
- 15) To purchase, take on lease, hold, sell, lease, mortgage, exchange and otherwise own, possess and deal with any real or personal property and in particular any land, buildings or easements for any purposes connected with the conduct of the Association;
- 16) To borrow or raise or secure the payment of money in such a manner as the Association may think fit, to secure the same, or the repayment or performance of any debt liability, contract, guarantee or other engagement incurred, or to be entered into by the Association in any way and to redeem or pay off such securities;
- 17) 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 Association;
- 18) To do all such things as the Association may from time to time deem incidental or conducive to the attainment of the above objects or any of them but at all times recognising that the Association may be constrained to pursue only some of these objects to the exclusion of others from time to time or pursue some objects with differing priorities.

56 – STRUCTURE

- 1) The Association consists of the members of it from time to time.
- 2) Each member shall be a member of a Zone.
- 3) Subject to the members convened in general meeting, the supreme governing body of the Association in respect of matters specifically assigned to it by these Rules shall be the National Council;
- 4) The Committee of Management of the Association is the Executive, which shall have the responsibility of managing and controlling the affairs of the Association subject to the direction of members in general meeting or by plebiscite, or direction by the National Council on matters within its authority.

57 – DEFINITIONS AND INTERPRETATION

- 1) In these Rules, the following words or expressions shall have the following meaning, unless the contrary intention appears.
 - a) “AFP” shall mean the Australian Federal Police;
 - b) “Association” or “the Association” means the Australian Federal Police Association, a branch of the Federation;
 - c) “Association Executive Officers” shall mean the officers of the Association identified in Rule 72(1);
 - d) “Branch” or “the Branch” means the Association;
 - e) “Casual vacancy” shall mean a vacancy occurring in an office after it has been filled and before the expiry of the term of that office;
 - f) “Convenor” means the Convenor of a Zone (formerly titled “Zone Co-Ordinator”);
 - g) “Executive” shall mean the Executive Committee of the Association constituted under these Rules;
 - h) “Federation” or “the Federation” means the Police Federation of Australia;
 - i) “Federation Rules” means the registered Rules of the Federation as they provide from time to time;
 - j) “Financial Reports” means the Auditor’s Report, General Purpose Financial Report and Operating Report in respect of any financial year of the Association;

- k) “FWC” means the Fair Work Commission by that name or any other name, or any successor thereto;
 - l) “Legal assistance” shall mean:
 - (i) the provision of legal advice and representation of a member by a legally qualified employee of the Association, at no cost to that member apart from their fees; and/or
 - (ii) the provision of funding for or toward the legal costs (including expenses and disbursements) of a member by one or more legal practitioners engaged to provide legal services to that member.
 - m) “Members’ matter” shall mean any matter falling within the responsibility of the National Council other than the election or appointment of Association Executive Officers or Workplace Delegates, the removal of any Association Officer or Workplace Delegate from office and the alteration of the Rules of the Association;
 - n) “National Council” means the National Council of the Association;
 - o) “Office” shall bear the meaning assigned to it by the RO Act;
 - p) “Officer” shall mean the holder of an office, with the exception of a Returning Officer;
 - q) “Person” shall mean a natural person, a partnership or a corporation, as the case may require;
 - r) “Returning Officer” means the person holding or exercising the duties of the position referred to in Rule 94(6) or, where applicable, a member of the staff of the Australian Electoral Commission;
 - s) “Special Resolution” shall mean a resolution supported by not less than seventy-five percent (75%) of the persons entitled to vote on that resolution;
 - t) “the Rules” or “these Rules” shall mean the registered Rules of the Association as they provide from time to time;
 - u) “RO Act” or “the RO Act” shall mean the Fair Work (Registered Organisations) Act 2009 (Cth);
 - v) “Workplace Delegate” means a workplace delegate for a Zone;
 - w) “Zone” means a zone of the Association constituted by the Executive pursuant to Rule 85.
- 2) In these Rules, unless the contrary intention appears:
- a) The singular shall include the plural, and vice versa;

- b) A reference to one gender shall include a reference to all other genders;
 - c) Headings are for convenience and do not affect meaning;
 - d) A reference to a communication “in writing” or “written” includes email or any other written form of electronic communication;
 - e) Any schedule to these Rules shall form part of these Rules;
 - f) The word “shall” is a word meaning mandatory requirement;
 - g) A reference to a statute shall include any amendments to that statute and any statutory instruments made pursuant to that statute, and shall also include any successors to such statute, whether in whole or in part.
- 3) A reference in the Federation Rules to “Zone Secretary” of the Association shall be deemed to be a reference to the Secretary/Treasurer of the Association.

58 – BRANCH AUTONOMY

Notwithstanding any other provision of these Rules, the Association shall be completely and absolutely autonomous in matters affecting members of the Association only or its real and personal property and funds and shall be responsible for its own government and administration. It shall possess full and adequate powers to conduct its own affairs and to seek its objectives under the Rules. The control of the Association shall reside exclusively in the members of the Association. This Rule can never be altered except by a ballot of all financial members of Association conducted under Rule 71 of these Rules.

CHAPTER 2 – MEMBERSHIP

59 – ELIGIBILITY FOR MEMBERSHIP

See Rule 3 of the Federation Rules.

60 – ADMISSION TO MEMBERSHIP

Without limiting the effect of the Federation Rules in relation to admission to membership of it, a person who is eligible to be a member of the Federation pursuant to Rule 3(i) of the Federation Rules, and who otherwise complies with the Federation Rules and these Rules, is entitled and shall, on application, be admitted to membership of the Association.

61 – SUBSCRIPTIONS

- 1) Until otherwise determined by the Executive, the subscription for membership of the Association shall be calculated as follows:

- a) In the case of Executive employees, 1.25% of the Executive Level minimum salary prescribed by the Executive Level Enterprise Agreement between the Association and the AFP from time to time;
 - b) In the case of all other employees (whether sworn or unsworn), 1.25% of the base salary for the employee concerned (that is, without any composite allowance) prescribed by the Enterprise Agreement between the Association and the AFP from time to time.
- 2) Subscriptions shall be due on the 1st July and shall be payable not later than the 30th September in the same year, provided that in the case of a member joining the Association after the 1st July in any financial year the subscriptions of such member for that year:
- a) Shall be a pro rata amount calculated in accordance with the remaining number of complete months in that financial year; and
 - b) Shall be payable by that member not later than three months after the date of acceptance of their membership.
- 3) Notwithstanding anything contained in these Rules:
- a) The Executive may make arrangements with any employer whereby with the authority of any member the subscriptions payable by that member to the Association are to be deducted by the employer from the salary or salaries of the member on a regular basis and paid to the Association;
 - b) A member who has authorised such deduction of their subscription to the association from their salary shall, subject to the provisions of paragraph (c) of this Sub Rule, be deemed a financial member of the Association so long as such authority remains in force and provided that such member owes no arrears of subscriptions, fees or levies;
 - c) Where an arrangement referred to in this Sub Rule is terminated by the employer, the Secretary/Treasurer or the Zone Convenor shall 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 days from the date of such written notice, pay to the Association 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 subscription payable by that member for that year less such amount or amounts as has or have been deducted by the employer from that member's salary in respect of such annual subscription) and thereafter shall be liable to pay subscriptions in accordance with this Rule;
 - d) The Secretary/Treasurer may make arrangements to provide for any Association members who choose to, to pay their subscriptions to the Association by means of automatic electronic funds transfer via a financial institution.
- 4) All subscriptions and fees payable by members of the Association shall be paid to and collected by the Secretary/Treasurer or their duly appointed agent.
- 5) Where the Association becomes aware that payments required to be made by a member to the Association pursuant to any arrangement made under this Rule have ceased without notice to the

Association, the Association shall within seven (7) days of becoming aware of such cessation notify the member and give them a reasonable opportunity, being not less than fourteen (14) days, to rectify any deficiency and make good any arrears.

- 6) The Executive may, upon receipt of a written application by a member:
 - a) Permit the member to pay their subscription by instalments, and/or;
 - b) Exempt such member from the payment either wholly or in part of any subscriptions, fees or levies payable by such member where the Executive believes that that member's peculiar circumstances warrant such action by it.
- 7) Where the Executive receives such an application from a member the Executive shall, before deciding on the application, advise the member in writing of the consequences of such an application on that member's rights as a member, as prescribed by Rule 63 (3), and give the member the opportunity to withdraw the application before it is decided upon by the Executive.

62 – ASSOCIATION LEVIES

Levies shall not be imposed upon members except by a decision of the members in general meeting.

63 – UNFINANCIAL MEMBERS

- 1) Subject to Rule 61(3) and Sub Rule (3) of this Rule, a member owing subscriptions, fees or levies for a period of three months after they first become due shall be deemed to be unfinancial.
- 2) In addition to the provisions of Rule 10 of the Federation Rules, an unfinancial member shall not be entitled to attend or speak or vote at any meeting of the Association.
- 3) Any member exempted pursuant to Rule 61(5) of these Rules from payment either in whole or in part of any subscription, 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 or participate in any ballot or election in any Zone.
- 4) Without limiting the foregoing provisions of this Rule, and subject to those provisions, a member who is unfinancial shall not be entitled to any of the benefits of membership, or services of the Association during the period of unfinanciality, unless otherwise determined by the Executive.

64 - ALLOCATION AND TRANSFER OF MEMBERS

- 1) An Association member shall be attached to a Zone, the composition, constitution and boundaries of which are to be determined from time to time by the Executive, in accordance with these Rules, in a manner determined from time to time by the Executive.
- 2) All members must be attached to the Zone that they could most conveniently belong to ensure fair and equal representation. Where possible a member will first be attached to a Zone that best

represents their operational/functional role within the workforce, or geographical location. The Secretary/Treasurer shall allocate all members in accordance with Executive resolutions as adopted from time to time in accordance with these Rules.

- 3) A member, once attached to a Zone, must remain a voting member of that Zone. A member may be transferred to another Zone only in accordance with Executive resolutions.
- 4) The Executive must regularly review the constitution, membership and boundaries of all Zones to ensure fair and equal geographical, skills and role-based representation. Should it be necessary the Executive will from time to time establish Zones to ensure maximum and equal representation of all members.

NB: See also Rule 85 (4) in connection with elections of Workplace Delegates.

65 - TERMINATION OF MEMBERSHIP

- 1) In addition to the provisions of Rule 11 of the Federation Rules:
 - a) A member may resign from membership by notice in writing addressed and delivered to the Secretary/Treasurer or the office of the Association;
 - b) A notice delivered in accordance with Rule 65(1) shall be taken to have been received by the Association when it was delivered;
 - c) A Zone Convenor in receipt of a notice of resignation from a member shall forward that notice to the Secretary/Treasurer forthwith.
- 2) Notwithstanding any other provisions of these Rules, if a member has failed to pay the subscriptions required by these Rules to be paid by them to the Association for a continuous period of 24 months from the date such amount becomes due for payment, then the Association shall as soon as possible after the expiry of that 24 month period, and in any event within a further 12 months of that latter date, remove the name of that person from the register of the Association's members. That person shall cease to be a member of the Association on the date that their name is removed pursuant to this sub Rule.

66 - READMISSION TO MEMBERSHIP

Subject to the provisions of the RO Act, the readmission of a person to membership who has resigned from or been expelled from the Association shall be conditional on the payment of any moneys owing by such persons to the Association in respect of their earlier membership and subject to the approval of the application by the Executive, provided that the Executive may in its discretion resolve to wholly or partially waive any such outstanding monies.

67 - RECOVERY OF SUBSCRIPTIONS ETC FROM ANY MEMBER

See Rule 10(e) of the Federation Rules.

68 - MISCONDUCT OF MEMBERS

- 1) Any financial member of the Association may report another member in writing, in respect of any of the following matters:
 - a) Knowingly refusing to obey any of the Rules of the Federation or the Association;
 - b) Refusing to abide by a resolution carried at any meeting of the Association;
 - c) Defrauding or attempting to defraud the funds of the Association;
 - d) Making a false and malicious report against another member;
 - e) Violating or attempting to violate the terms of any industrial award or agreement;
 - f) Entering or attempting to enter into any agreement with any employer contrary to the provisions of any award or agreement secured by the Association and applicable to them;
 - g) Obstructing the National Council or other lawful committee or body of the Association in any way in the performance of any of its functions;
 - h) Obstructing any officer of the Association in the course of their duties;
 - i) wrongfully holding themselves out as occupying any office or position in the Association in any capacity (to which charge it shall be a defence that the member believed bona fide and on reasonable grounds that the member was entitled to so act);
 - j) Behaving in a disorderly manner at any meeting held under these Rules or in the office of the Association;
 - k) Aiding or encouraging any other member or members in any offence under this Rule.
- 2) Any report shall be made in writing to the Secretary/Treasurer and shall be accompanied by a deposit equivalent to one months' subscription. The Secretary/Treasurer shall summon the member reported before a meeting of the Executive, or require the member reported to participate in a meeting of the Executive by means of a telephone conference. Such summons shall be in writing and shall set out the time and place of the meeting or the time of the telephone conference (as the case may be), the name of the person making the report and the substance of the report. The person reported shall be given such notice of the meeting or telephone conference as may be reasonable, having regard to all the circumstances and if required to attend at a place more than 80 kilometres from their address as shown in the books of the Association shall be given their return fare. The member shall, on request, be supplied with such further particulars as may be necessary to indicate the precise matters with which the member is reported.
- 3) The Executive shall have power to hear and determine reports under this Rule, subject to an appeal to National Council being open to the member reported.

- 4) At the appointed time and place (or any time and place to which the meeting is adjourned or postponed and of which the person reported is notified) the report may be investigated, whether or not the person reported is present, unless a satisfactory explanation of their absence has been received.
- 5) If the member reported attends they shall be informed of the substance and source of any information adverse to them on which the Executive relies. The member shall be given a reasonable opportunity to defend themselves and may, if they wish, tender written submissions.
- 6) If the Executive finds the member proved guilty it may do one or more of the following, keeping in mind the seriousness of the offence:
 - a) Impose no penalty;
 - b) Suspend the member from membership or deprive them of any right or benefits of membership for any specified period or until the happening of any specified event or until the performance of any specified act. Suspension from membership shall deprive a member of the benefits of membership but shall not relieve them of the obligations of membership and shall not exceed six months for any offence. If the specified event had not occurred or the specified act had not been done at the expiration of six months from the date of suspension, the suspension shall then lapse;
 - c) Expel them from the Association.
- 7) Upon completion of any hearing, the deposit shall be refunded to the member making report, provided that if upon investigation the report is found to be frivolous by unanimous decision of the Executive, the deposit shall be forfeited by the member who made the report and shall be paid into the funds of the Association.
- 8) An appeal shall lie at the instance of the member reported from any decision under this Rule from the Executive to the National Council. Notice of appeal shall be given in writing within two weeks of any decision being communicated to the member and shall set forth in full all matters that the appellant desires to be considered. The appeal may be dealt with in meeting or by postal vote. The notice of appeal shall be given to the Secretary/Treasurer.
- 9) No member against whom a report has been made pursuant to this Rule shall be entitled to commence or prosecute any action or legal proceedings for defamation against the person making the report or any person who gave evidence (either orally or in writing) or any person who exercised any power or duty in respect to the hearing of the report, it being a condition of membership of the Association that all complaints, notices, letters, evidence or other matter arising under or incidental to any report and the hearing and determination thereof and all proceedings and utterances at the hearing and determination thereof should be privileged and protected accordingly and should any action or legal proceedings be taken as aforesaid, this Rule shall be pleaded as an absolute bar thereto, provided that this Rule shall not protect any person against any legal liability for making, with express malice, a statement false to the knowledge of such person.

CHAPTER 3 – GOVERNANCE

69 – OVERVIEW

The governance structure of the Association consists of:

- 1) General meetings of member and plebiscites;
- 2) National Council;
- 3) Executive; and
- 4) Zone Committees.

The following seven (7) Divisions of this Chapter deal with each of these various parts of the structure and related matters.

Division 1 – GENERAL MEETINGS AND PLEBISCITES

70 – ASSOCIATION GENERAL MEETINGS

- 1) A General Meeting of the Association may be convened in accordance with the requirements of this Rule to deal with either a Member's matter or for the specific purpose of considering the Financial Reports.
- 2) A General Meeting of the Association may be called at any time on a resolution of the National Council being carried that such a meeting be held.
- 3) A General Meeting of the Association shall be called by the Secretary/Treasurer upon receipt by them of:
 - a) a direction to do so from the National Council; or
 - b) a petition signed:
 - i. by not less than five per cent of the financial members of the Association if the meeting is being convened to deal with a Members' matter; or
 - ii. by not less than five per cent of the members of the Association if the meeting is being convened for the purpose of considering the Financial Reports.

Such petition 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 their signature.

- 4) Not less than seven (7) days' notice of the time, place and agenda of a General Meeting shall be given, provided that when a matter requires immediate attention such lesser notice of a General

Meeting as may be determined by the Executive may be given. Such notice to members shall be in writing and posted or delivered to each member's place or employment, or by email communication to a member's email address provided to the Association, or by notice published on the Association website.

- 5) A General Meeting shall not be competent to deal with any Members' Matter other than the reason set out by the petition of members or the notification of such meeting as has been given by the Secretary/Treasurer.
- 6) A General Meeting shall be held at such time and place as shall be determined by the Executive and shall be held not later than twenty-eight (28) days following the receipt of the petition by the Secretary/Treasurer.
- 7) A quorum for any General Meeting shall be at least five (5) percent of the financial members of the Association.
- 8) If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of a General Meeting, the meeting shall lapse but without prejudice to the calling of another General Meeting in accordance with the requirements of this Rule to deal with the same business, provided that no such further meeting may be convened without the approval of the Executive given by way of a special resolution.
- 9) Voting at all general meetings shall be by show of hands or by such other method as the meeting may decide. The Chair shall have a deliberative vote only and in the event of a tie the question shall lapse. Proxy voting shall not be permitted.
- 10) Notwithstanding any other provisions of these Rules a General Meeting may be conducted either:
 - a) by way of one meeting of the members at one location, or by way of a series of meetings at different locations, with the General Meeting being taken to have occurred, and the requirements for a quorum being determined, at the time of the last of the meetings in the series; or
 - b) by way of one meeting of the members where electronic facilities allow a reasonable opportunity for members present at the meeting to see and hear each other, including in relation to their voting intentions, although those members are at different locations during the meeting.

71 – PLEBISCITE OF ASSOCIATION MEMBERS

- 1) A plebiscite of all financial members of the Association in relation to any Members' Matter:
 - a) May be held at the discretion of the National Council or the Executive; and
 - b) Shall be held if required by a requisition in writing and signed by not less than five (5) per cent of the financial members of the Association.

- 2) The Executive shall approve for issue with the ballot paper a fair summary of the arguments for and against the question to be voted upon in the plebiscite and, for this purpose, the Secretary/Treasurer, after consultation with the parties in contention, shall submit to the Executive a draft of such summary.
- 3) Any such plebiscite shall be conducted by secret postal ballot and shall be under the absolute control and direction of the Returning Officer appointed pursuant to Rule 94(6) who shall:
 - a) Prepare ballot papers which shall contain the question to be voted on;
 - b) Cause to be posted to each member entitled to vote in the plebiscite a ballot paper, initialled by the Returning Officer, together with a reply paid envelope addressed to the Returning Officer, the summary approved by the Association Executive and such directions and instructions as the Returning Officer may deem necessary for the conduct of the plebiscite;
 - c) Determine the time and date for the closure of the ballot, having consideration for the convenience of the voters;
 - d) Take such steps as are necessary to ensure that a result is correctly ascertained;
 - e) Report the result of the plebiscite to the first meeting of the Executive held after the conclusion of the counting of the votes cast.
- 4) A simple majority decision of the members voting shall be final and shall prevail over any contrary decision of the National Council or the Executive.

Division 2 – ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES

72 - ~~OFFICERS OF THE ASSOCIATION~~ EXECUTIVE OFFICERS AND WORKPLACE DELEGATES/DELEGATES TO NATIONAL COUNCIL

- 1) The Association Executive Officers shall be:
 - a) the President;
 - b) the Vice President;
 - c) the Secretary/Treasurer;
 - d) Six Executive Members.
- 2) In addition to the Association Executive Officers there shall be Workplace Delegates for each Zone whose duties and responsibilities shall be:

- a) to represent the members of the Association in their workplace to the best of their ability and to keep their Zone informed on all matters of importance occurring within their workplace;
 - b) to keep the members in the workplace informed about the business of the Association;
 - c) to endeavour to resolve all issues referred to them by members in their workplace by discussion with representatives of the AFP relevant to their workplace and in the event that an issue cannot be resolved by discussion, the Workplace Delegate shall refer the matter to the Zone Convenor, together with such other information as is necessary;
 - d) to diligently attend and participate in meetings of the National Council; and
 - e) to perform such other duties and responsibilities as are imposed on them by these Rules.
- 3) Workplace Delegates shall be elected to each Zone in accordance with the following formula in all such elections conducted after the certification of this Rule:
- (i) 1 to 100 members: one delegate;
 - (ii) 101 to 200 members: two delegates;
 - (iii) 201 to 300 members: three delegates;
 - (iv) 301 to 400 members: four delegates;
 - (v) 401 to 500 members: five delegates;
 - (vi) 501 to 600 members: six delegates;
 - (vii) 601 to 700 members: seven delegates;
 - (viii) 701 members and above eight delegates

PROVIDED THAT the above formula shall be reviewed by the Executive and the National Council every two (2) years following the certification of this Rule to determine whether any alteration is then required to continue to ensure fair representation of each Zone.

- 4) The term of office of a Workplace Delegate elected pursuant to these Rules shall be two (2) years from the date of such election, provided that they shall continue in that office until their successor takes up office. Any such person elected to such office is entitled to seek re-election for that office, if otherwise eligible in accordance with these Rules.
- 5) Any financial member of the Association is entitled to nominate and vote for the office of Workplace Delegate in the Zone to which they are allocated as at the date of calling of nominations for such office pursuant to Rule 95(5)(a).
- 6) Elections for Workplace Delegates will be conducted in each Zone in accordance with Rule 95(5).

- 7) Any casual vacancy for the office of Workplace delegate shall be filled in accordance with Rule 95 (7).
- 8) Assistant Workplace Delegates may be co-opted by the Zone Convenor as they see fit in order to enable the Zone Committee and its members to carry out their duties under these Rules. The names of such Assistant Workplace Delegates shall be forwarded to the Secretary/Treasurer and one such Assistant Workplace Delegate shall act on behalf of any Workplace Delegate when they are on leave or not available.
- 9) Zone Convenors, Workplace Delegates, or Zones, except as provided in these Rules, shall not commit the Association to a course of action, either formally or informally, and shall not incur any expense or liability on behalf of the Association unless expressly authorised by the Executive.
- 10) For the purposes of this Rule a Zone Convenor shall be deemed to be a Workplace Delegate where there is no such position elected within the Zone in accordance with Sub Rule (3) of this Rule.
- 11) **All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary except:**
 - a) **for the office of President as prescribed by Rule 82; and**
 - b) **any office to which Rule 83 applies where the Executive resolves that such office be a paid position, and subject to any conditions contained in such resolution.** ~~All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary unless the Executive resolves that the offices of President and/or Vice President shall be paid positions.~~

73 – DUTIES OF OFFICERS (INCLUDING WORKPLACE DELEGATES)

- 1) All Association Executive Officers and Workplace Delegates are required to give due and diligent attention to their duties to the Association, whether prescribed by these Rules, the RO Act or any other law.
- 2) Without limiting the foregoing, an Association Executive Officer or Workplace Delegate is under a duty to the Association to comply with the provisions of the Association’s “Code of Conduct” as such Code provides from time to time.
- 3) Without limiting the effect of the preceding provisions of this Rule, Association Executive Officers shall also comply with financial accountability obligations prescribed by Part B1 of the Federation Rules.

Division 3 – NATIONAL COUNCIL

74 – CONSTITUTION OF NATIONAL COUNCIL

- 1) The National Council shall consist of:
 - a) The Association Executive Officers ~~of the Association~~; and

- b) Subject to Rules 72(3) and 74(2) Workplace Delegates from each Zone, elected by and from the financial members of each Zone;
 - c) Each Zone Convenor as elected in accordance with these Rules, by and from financial members in each Zone.
- 2) The Zone Convenor shall, ex officio, be the first of the Zone's delegates to the National Council and shall be counted in the number of delegates eligible to be elected.
 - 3) Where a Zone Convenor or Workplace Delegate of a Zone becomes an Association Executive Officer ~~of the Association~~, they shall cease to be and act as a delegate of that Zone and that Zone shall be entitled to elect or appoint a delegate in their place in accordance with Rule 95(7) of these Rules.

75 – POWERS AND DUTIES OF NATIONAL COUNCIL

The National Council shall, subject to these Rules and the control by the members as hereinbefore mentioned, be the supreme governing body of the Association in relation to the following matters, and those matters only:

- 1) To determine and direct the general policy of the Association in all matters affecting the National Council;
- 2) To make, add to, amend, rescind and/or otherwise alter these Rules;
- 3) To approve guidelines for the granting of legal assistance to members pursuant to Rule 105;
- 4) To resolve that the Association affiliate with any other organisation or body that has industrial or political objects consistent with those of the Association;
- 5) To elect, in an election year, by and from its number, the Association Executive Officers ~~of the Association~~ as identified in Rule 72(1);
- 6) To remove any Officer of the Association from office as specified in Rule 92;
- 7) To confer Life Membership on any person in recognition of long or exemplary service rendered to the Association;
- 8) To nominate for award or national recognition any person in recognition of exemplary service rendered to the Association and/or law enforcement profession and/or welfare of law enforcement officers and victims of crime and/or the community; and
- 9) To exercise any other power specifically conferred on it by these Rules.

76 – MEETINGS OF NATIONAL COUNCIL

- 1) The National Council shall meet biennially in the months of March or April or at such other time as is determined by the Executive.

- 2) Special meetings of the National Council shall be held by resolution of the National Council or Executive.
- 3) The Secretary/Treasurer shall give each member of the National Council at least thirty (30) days' notice of the biennial meeting of National Council and seven (7) days' notice of any special meeting thereof.
- 4) The quorum for meetings of the National Council shall be one half of the persons entitled to attend and vote. If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of the meeting such meeting shall lapse but without prejudice to another such meeting being called for the same purpose as such meeting was called, at such other time and place as may be thought fit, upon seven (7) days' notice to all members by the Secretary/Treasurer provided that no such meeting may be convened without the approval of the Executive given by way of a special resolution.
- 5) Voting at all meetings of the National Council shall be by show of hands unless the National Council decides on another method. At all such meetings the Chair shall have a deliberative vote only and in the event of a tie the question shall lapse. Proxy voting shall not be permitted.

77 – AGENDA FOR NATIONAL COUNCIL

- 1) Not less than sixty (60) days prior to a biennial meeting of the National Council, the Secretary/Treasurer shall invite each member of the National Council to submit items for the agenda, such items to be forwarded to the Secretary/Treasurer not more than thirty (30) days after such invitation.
- 2) The Secretary/Treasurer shall, upon receipt of such items, prepare and forward to each member of the National Council a copy of the agenda paper at least fourteen (14) days prior to the biennial meeting of National Council.
- 3) The Executive shall have power to submit items for consideration by National Council and such items shall be included on the agenda paper referred to in Sub Rule (2) of this Rule.
- 4) The agenda paper for a special meeting of National Council shall be forwarded with the notice of such meeting.
- 5) National Council may, at any of its meetings, deal with any matter, pursuant to Rule 75, whether or not that matter has appeared or appears on the agenda paper, provided that a majority of the members of National Council present and voting, vote in favour of the particular item being considered.

78 – FARES AND EXPENSES

The Executive shall determine from time to time the fares and expenses to be paid to or on behalf of members of the National Council and when attending meetings of the same or when attending to the business of the Association. Such fares and expenses shall be paid out of the funds of the Association.

79 – MATTERS REQUIRING DECISION BETWEEN NATIONAL COUNCIL MEETINGS

- 1) The Executive may determine that any matter requires a decision of the National Council between biennial meetings of the National Council and that such matter be submitted to the National Council for decision in accordance with either of the procedures prescribed in Sub Rules (2) and (3) of this Rule.
- 2)
 - a) Where it is determined that the matter be submitted to the National Council for decision by ballot of the members of the National Council, such matter may be forwarded by post, email or facsimile to each of the members of the National Council in such form as is determined by the Executive.
 - b) The members of the National Council shall record their vote on the matter so submitted by post, email or facsimile addressed to the Secretary/Treasurer and the decision of the majority shall be binding as if such decision were obtained by vote at a regularly constituted meeting of the National Council.
 - c) All votes or their confirmation shall be signed by members of National Council recording the same.
- 3)
 - a) Where it is determined that the matter be submitted to the National Council for decision by a meeting of members of the National Council conducted by such telephonic or electronic means as may from time to time be available, the Secretary/Treasurer shall as soon as is practicable arrange such a meeting.
 - b) The members of the National Council shall participate in such a meeting and the decision of the majority shall be binding as if such decision were obtained at a regularly constituted meeting of the National Council.
- 4) If:
 - a) In the course of a ballot conducted pursuant to Sub Rule (2) of this Rule, a majority of members of the National Council notify the Secretary/Treasurer; or
 - b) In the course of a meeting conducted pursuant to Sub Rule (3) of this Rule, a majority of members of the National Council resolve, that the matter as submitted to them is of such importance as to require a special meeting of the National Council then such special meeting of the National Council shall be convened forthwith by the Secretary/Treasurer to meet at such time and place as the Executive shall determine.
- 5) At any special National Council meeting held pursuant to Sub Rule (4)(b) of this Rule the Executive may submit for consideration such other matters as it should determine, provided that written notice of not less than seven (7) days is given to all members of the National Council.

Division 4 – NATIONAL EXECUTIVE

80 - EXECUTIVE – COMPOSITION, POWERS AND DUTIES

- 1) The Executive shall consist of the Association Executive Officers, ~~of the Association~~ and shall be the committee of management of the Association for the purposes of the RO Act. Subject to these Rules and the decisions of the National Council and the members in general meeting or by plebiscite, the Executive shall have full power to conduct and manage the affairs of the Association.
- 2) Without limiting the effect of Sub Rule (1), the Executive shall have the following powers:
 - a) Such powers as are specifically conferred on the Executive by any other provisions of these Rules;
 - b) The power to appoint an Association auditor, and to fix their fees or remuneration;
 - c) To remove an association auditor in accordance with Rule 100;
 - d) To fix the remuneration and benefits of Association Executive Officers;
 - e) To fix the remuneration of the Association Returning Officer;
 - f) Subject to the requirements of Rule 107 in the case of the General Manager, fix the terms and conditions of employment of employees of the Association;
 - g) Delegate the powers and responsibilities of the Secretary/Treasurer to the General Manager;
 - h) To appoint any person to represent the Association before any court, commission, board, tribunal or other authority;
 - i) To establish any committee or subcommittees as it may determine provided that any such committee or subcommittee shall be advisory only;
 - j) To enter the association into an affiliation with any other organisation or body other than those with industrial or political objectives;
 - k) Subject to the RO Act, to interpret these Rules;
 - l) To direct the investment of the funds of the Association;
 - m) To dispose of or transfer any of the funds of the Association or any securities in which the funds of the Association have been invested;
 - n) To establish such companies, agencies and bodies as are necessary to further the interests of the members;
 - o) To take such action or exercise such powers as are incidental to those specifically identified in these Rules.

81 – MEETINGS OF EXECUTIVE

- 1) The Executive shall meet at such times and in such places as it shall determine by resolution and may meet as many times in a calendar year as it should so determine, provided that it shall meet no less than five (5) times in any one calendar year.
- 2) A meeting of the Executive may also be convened at the written request of the President or at least three (3) Members of the Executive, submitted to the Secretary/Treasurer. To avoid doubt, there is no limit on the number of such meetings that may be conducted in any one calendar year.
- 3) The Secretary/Treasurer shall give written notice of each meeting of the Executive as follows:
 - a) In the case of a meeting convened pursuant to Sub Rule (1) of this Rule, at least seven (7) days' notice of the time of the meeting; and
 - b) In the case of a meeting convened pursuant to Sub Rule (2) of this Rule, not less than forty-eight (48) hours' notice of the meeting, where practicable;

provided that where the Executive resolves to schedule more than one meeting pursuant to Sub Rule (1), the Secretary/Treasurer may notify the members of those dates by one communication listing all dates so fixed.

- 4) The quorum for meetings of the Executive shall be one half of the persons entitled to attend and vote. If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of the meeting such meeting shall lapse but without prejudice to another such meeting being called for the same purpose as such meeting was called, at such other time and place as may be though fit, upon seven (7) days' notice to all members by the Secretary/Treasurer.
- 5) Notwithstanding any other provision of these Rules, any meeting of the Executive may be conducted in person, by telephone or videoconference, or by a combination of these forms of meeting or communication. Where any such Meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:
 - (a) Any such meeting is otherwise convened and conducted in accordance with the requirements of the Rules, including (without limitation) the preceding provisions of this Sub Rule; and
 - (b) Each of the members participating in the meeting must be able to hear each of the other members present at the meeting.
- 6) Where in the opinion of the President a matter requires the consideration of the Executive before its next scheduled meeting, the Executive may be consulted in writing (including electronic means) by circular proposed resolution. Such a proposed resolution shall become a resolution of the Executive as at the date set for return of responses, provided that the proposed resolution is supported by at least fifty (50) percent of the total number of Executive ~~members~~ Members then holding office, plus one. A resolution passed by way of such circular resolution shall be reported to the next Executive meeting.

- 7) To avoid doubt, in this Rule, communication by way of email to a person at that person's email address notified to the Association shall be deemed sufficient to constitute written communication to that person.
- 8) It shall be the duty of each Association Executive Officer to attend every meeting of the Executive unless granted leave by the Executive.
- 9) At all meetings of the Executive voting shall be by show of hands unless the meeting decides on another method. The Chair shall have a deliberative vote only and in the case of a tie the question shall lapse. Proxy voting shall not be permitted.

82 – PRESIDENT

- 1) The President shall preside at all meetings of the National Council and the Executive and any meeting of the Association held by decision of the National Council. They shall preserve order so that the business may be conducted in due form and with propriety and upon the minutes being confirmed shall sign those minutes in the presence of the meeting.
- 2) The President shall have the authority to act for and on behalf of the Executive in any matter of such urgency that the Executive cannot reasonably be convened or consulted under these Rules but shall report the full circumstances of such action to the Executive at the first available opportunity.
- 3) In addition to the foregoing obligations, the President shall undertake full time the role of being principal spokesperson and public representative of the Association, with the principal place for the performance of those duties being at and from the location of the National Office as determined pursuant to Rule 54.
- 4) The Office of President shall be a full time paid position on terms and conditions prescribed by resolution of the National Executive from time to time.

83 – VICE-PRESIDENT AND EXECUTIVE MEMBERS

- 1) The Vice President shall assume the duties of the President in the absence of that Officer for any reason and shall otherwise perform such duties and functions as may from time be allocated to them by resolution of the Executive. ~~Provided that if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive members to act as Vice President until either that Officer or the President becomes available.~~ Provided that:
 - a) if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive Members to act as Vice President until either that Officer or the President becomes available; or
 - b) If the President is unavailable for any reason and the Vice President either advises the General Manager in writing that they are unwilling to assume the duties of President or fails to take up those duties within seven (7) days of the requirement to do so arising, the Executive

may appoint another member of the Executive to act as President until the President becomes available.

2) Each Executive Member shall at all times assist the President in the execution of their duties and provide oversight, direction and assistance to Convenors and Workplace Delegates. The Executive will determine which Convenors and Workplace Delegates are to be allocated to each of the Executive Members for oversight, direction and assistance.

3) The Executive may resolve that any office to which this Rule relates shall be a paid position, provided that any such resolution must specify:

a) whether the position is full time or part time, and if the latter the hours and/or days of work;

b) the duties of the paid position;

c) the principal place at or from which the duties are to be performed; d) the duration of the paid position; and

e) the terms and conditions for the position, including remuneration,

PROVIDED THAT:

f) The principal place at or from which the duties are performed shall be the National office as determined pursuant to Rule 54, unless the Executive resolves otherwise; and

g) Any such resolution may be altered or rescinded at any time by the Executive, on not less than thirty (30) days notice to any incumbent.

84 – SECRETARY/TREASURER

1) The Secretary/Treasurer shall:

a) Summon by notice in writing to each member thereof and attend, unless excused, all meetings of the National Council and the Executive and keep or cause to be kept correct minutes of the same, which minutes when confirmed are to be electronically stored in the Association's records;

b) Have the right to speak at any general or special meeting of any Association or Zone Committee, but not to vote unless they are a member of such Zone Committee;

c) Initiate or respond to all correspondence as appropriate to these Rules;

d) Keep or cause to be kept the records required to be kept by an organisation pursuant to the provisions of the RO Act;

e) Lodge and file with and furnish to the General Manager of the Fair Work Commission and the Registered Organisations Commissioner all such documents as are required to be lodged, filed or furnished under the RO Act at the prescribed times and in the prescribed manner;

- f) Keep an up to date register of members showing their names, their postal address and email address where notified, and their allocated Zone under the Rules and provide the Returning Officer with such assistance as is necessary to enable them to conduct any election;
 - g) Receive all monies on behalf of the Association and pay the same within seven days of receipt into such financial institution or institutions as the Executive may direct to the credit of the Association;
 - h) Issue or cause to be issued proper receipts for all moneys received by or on behalf of the Association;
 - i) Be responsible for but not hold in their name, the books, records, property and moneys of the Association and, within 48 hours of receiving a request from the Executive to do so, deliver to the Executive such books, records, property and moneys;
 - j) Submit their books, accounts and receipts annually or as often as may be required by the Executive or to the auditors and to give them such assistance as they may require in the audit;
 - k) Draw up a report and balance sheet each financial year and forward a copy of same to each member of the Executive within three months of the end of the financial year to which it relates;
 - l) Prepare and submit to each meeting of the Executive an up-to-date financial statement and, when called upon so to do by the President, or the Executive, produce all relevant books in support of the same;
 - m) Subject to Rule 98(2), submit to the Executive all accounts for payment with their recommendations and make all authorised payments from the funds of the Association, such payments to be approved by any two of the Association Executive Officers appointed by the Executive;
 - n) At the direction of the Executive, carry out other duties as required.
- 2) The Secretary/Treasurer may deputise a member of a recognised Institute of Accountants approved by the Executive to keep the books of the Association, in which event they shall remain responsible for the supervision of their preparation and their accuracy.
 - 3) The duties prescribed in this Rule are to be carried out under the direction and control of the Executive which may from time to time delegate some of those duties by resolution to other Association Executive Officers or to the General Manager pursuant to Rule 107.
 - 4) To avoid doubt, the Secretary /Treasurer may be assisted in the performance of any of their duties under the Rules by the General Manager or any other employees so authorised by resolution of the Executive.

DIVISION 5 – ZONE GOVERNANCE

85 – ZONES

- 1) ~~The Association may establish such Zones as the Executive may from time to time decide. Subject to the provisions of this Division the Executive of the Association may from time to time establish Zones of the Association.~~ The Executive shall ensure that each Zone is operationally viable and represents a geographical, operational or other community of interest. The Executive must ensure that no inherent or contrived bias shall prejudice the reasonable application of the principle 'one vote - one value' for members through the establishment of a Zone. To ensure ongoing viability of a Zone, the Executive may appoint as many Assistant Workplace Delegates to a Zone as are required to allow proper representation of the Zone members.
- 2) Where a new Zone is established the new positions of Zone Convenor and Workplace Delegates will be filled in accordance with Rule 95.
- 3) The Association may disband such Zones as the Executive may from time to time decide. Where an existing Zone is disbanded the existing positions of Zone Convenor and Workplace Delegates held within the Zone will cease to exist at the completion of their current term or upon vacation of the office before that time.
- 4) Notwithstanding any of the previous provisions of this Rule, the Executive may not establish a new Zone, or disband or alter the coverage of any existing Zone, any later than 31 March in any year in which a biennial election for Workplace delegates is due to be conducted pursuant to Rule 95.

86 – ZONE MANAGEMENT

The government, management and control of the affairs of each Zone shall, subject to these Rules and any direction of the Executive be vested in a Zone Committee constituted by the elected Workplace Delegates, any assistant workplace delegates appointed, and the Zone Convenor of that Zone.

87 - ZONE CONVENORS

The Zone Convenor shall, ex officio, be a member of all Committees and Sub-Committees of the Zone.

- 1) The Zone Convenor shall:
 - a) Preside at all meetings of the Zone's Committee and preserve order thereat so that business may be conducted in due form with propriety and in conformity with standing orders;
 - b) Sign all documents requiring their signature as official head of the Zone and shall sign all minutes of the Zone duly confirmed in the presence of the meeting confirming the same;
 - c) Call meetings of the Zone committee when necessary;

- d) Generally, ensure the well-being of the Zone and its members and the carrying out of the objects of the Association within the area administered by their Zone;

88 - ZONE COMMITTEE

A Zone Committee shall consist of the Zone Convenor, such Workplace Delegates in number as elected in accordance with Rule 72(3) and Rule 95 and any Assistant Workplace Delegates if appointed.

89 - POWERS AND DUTIES OF ZONE COMMITTEE

A Zone Committee shall, subject to these Rules and to the control of the Zone members as hereinafter mentioned, have power:

- 1) To take any action which in its opinion is in the interests of the Zone, provided that such action does not conflict with the policies of the Association or any decision or direction of the National Council or the Executive; and
- 2) To exercise any other powers conferred upon it by these Rules.

90 - MEETINGS OF ZONE COMMITTEE

A Zone Committee shall meet at such times as it may determine provided that the President or the Secretary/Treasurer may, by notice in writing either by post or electronic means, call a meeting of the Zone Committee and shall call such a meeting if requested to do so by not less than one-third of the members of such Committee. The Zone Convenor shall cause accurate minutes of all Zone meetings to be kept and maintained.

91 – GUARANTEE OF FAIR REPRESENTATION

The Executive, when establishing the composition of any Zone will ensure as far as practicable that all Association members shall receive fair representation of their professional and industrial interests on the National Council. The Executive shall ensure that Zone compositions will preclude any institutional gerrymander which defeats the representation of members' interest.

Division 6 – ELECTION OF ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELATES

See Chapter 4

Division 7 – REMOVAL OF ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES

92 – MISCONDUCT OF ASSOCIATION EXECUTIVE OFFICERS

- 1) An Association Executive Officer may be removed from their office if the National Council by majority resolution of members voting finds them guilty, in accordance with these Rules, of

misappropriation of the funds of the Association, a substantial breach of the Rules of the Federation or the Association, gross misbehaviour or gross neglect of duty or finds that they have ceased, according to these Rules, to be eligible to hold their office.

[Note: See Rule 73(1) and Rule 81(8) – failure by an Association Executive Officer to attend three consecutive meetings of the Executive without leave may constitute a serious breach of the Rules or gross neglect of duty.]

- 2) Any member suspecting an officer to be liable to removal pursuant to Sub Rule (1) may report such officer under this Rule. Any report shall be in writing and shall be forwarded to the President or the Secretary/Treasurer, who shall notify the person reported of the details of the report.
- 3) The person reported shall be given not less than fourteen days' notice in writing of the time and place of the meeting at which the report is to be heard and determined and shall be entitled to attend such meetings and to be heard but not to vote thereat.
- 4) Notwithstanding the foregoing, the Executive by majority resolution may, in their discretion, suspend from office or Association membership a person reported under this Rule pending determination of the report but in no event shall a person remain suspended for a period exceeding twenty-eight (28) days.
- 5) A person shall be ineligible to hold office under this Rule if they cease to be a financial member of the Association.

93 - REMOVAL OF ZONE CONVENORS AND WORKPLACE DELEGATES

- 1) A Zone Convenor or Workplace Delegate may be removed from their office if the Executive by a majority resolution of members voting finds them guilty, in accordance with these Rules, of misappropriation of the funds of the Association, a substantial breach of the Rules of the Federation or the Association, gross misbehaviour or gross neglect of duty or finds that they have ceased, according to these Rules, to be eligible to hold their office.
- 2) Any member suspecting such an Officer to be liable to removal pursuant to Sub Rule (1) may report that officer under this Rule. Any report shall be in writing and shall be forwarded to the Secretary/Treasurer, who shall notify the person reported of the details of the report.
- 3) The person reported shall be given not less than fourteen (14) days' notice in writing of the time and place of the meeting at which the report is to be heard and determined and shall be entitled to attend such meeting and to be heard but not to vote thereat.
- 4) A member so removed by the Executive shall have the right of appeal to the National Council provided that the member gives to the Secretary/Treasurer notice of their intention to appeal within seven days of the member being notified in writing of their removal, but the giving of such notice shall not operate to stay the decision of the Executive.
- 5) Notwithstanding the foregoing, the Executive may, in its discretion, suspend from office a person reported under this Rule pending determination of the report but in no event shall a person remain suspended for a period exceeding twenty-eight (28) days.

- 6) A person shall be ineligible to hold office under this rule if they cease to be a financial member of the Association.

CHAPTER 4 – ELECTIONS

94 - ELECTION OF ASSOCIATION EXECUTIVE OFFICERS

1) Election and Tenure of Office

- a) The President shall be elected by secret ballot by and from the National Council and shall take office from the declaration of their election ~~and or the conclusion of the National Council meeting at which they were elected whichever is the later.~~ They shall hold office for a period of four years or until a successor thereto has been elected and taken office. Such an election shall be conducted at every second biennial meeting of National Council, occurring thereafter.
- b) ~~The Vice President shall be elected by secret ballot by and from the National Council at its first biennial meeting to be conducted after 23 December 2016. The person so elected shall take office from the declaration of their election and shall hold office for a period of four years or until a successor thereto has been elected and taken office. The Vice President, Secretary/Treasurer and the Six Executive members shall be elected by secret ballot by and from the National Council. The persons so elected shall take office from the declaration of their election or the conclusion of the National Council meeting at which they were elected, whichever is the later. Commencing from the elections to be conducted in 2021, they shall hold office for a period of four years or until a successor thereto has been elected and taken office.~~Such an election shall be conducted at every second biennial meeting of the National Council, occurring thereafter.
- c) ~~The Secretary/Treasurer and the six Executive members other than the President and the Vice President shall be elected by secret ballot by and from the National Council and shall take office from the declaration of their election and shall hold office for a period of two years or until successors to them have been elected and taken office. Such an election shall be conducted at every biennial meeting of National Council, occurring thereafter.~~

2) Qualifications for Office

- a) A nominee for the office of President, Vice President, Secretary/Treasurer or Executive ~~member~~ Member shall be a financial member of the Association at the date of their nomination and:
- (i) Shall be a member of the National Council; and
 - (ii) Nominated by two members of the National Council.

3) Manner of Election

- a) The Returning Officer shall call for nominations for the office of President, Vice President, Secretary/Treasurer and Executive ~~members~~ Members sixty (60) days prior to the meeting of National Council, in an election year, provided that nominations for the said offices shall close seven (7) days prior to such meeting. The roll of voters for these elections shall close no later than seven (7) days prior to the date upon which nominations are to be called.
- b) Nominations shall be in writing, signed by the nominee and two (2) nominators (who shall be members of the National Council) and shall be delivered to the Returning Officer in a form and by a means nominated by the Returning Officer.
- c) 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 the Returning Officer finding a defect in any nomination, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the nominee the opportunity of remedying the defect where practicable within a reasonable period of the nominee having been so notified.
- d) ~~The election of the Association Executive Officers shall commence immediately upon the initiation of the afternoon session of the second day of the National Council Meeting occurring in an election year.~~ Pursuant to sub Rule (1) of this Rule the election of the Association Executive Officers shall be held during the National Council meeting occurring in an election year during the period of such a year prescribed by sub Rule (1) of Rule 76.
- e) If only one nomination for a position is received by the Returning Officer, the nominee shall be declared elected. If two or more nominations are received the Returning Officer shall forthwith conduct a ballot of National Council members in accordance with this Rule and declare the result as soon as it becomes available.
- f) If more nominations are received than there are vacancies for a position, the Returning Officer shall have ballot papers prepared containing the names of the candidates for each position in order determined by lot, 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.
- g) The Returning Officer shall be responsible for the safe custody of the ballot papers and shall initial every ballot paper prior to distribution.
- h) The Returning Officer shall provide a ballot paper to each member of the National Council in attendance at the meeting who is eligible to vote and shall arrange for the use of a receptacle to which ballot papers shall be returned to. After the closing of the ballot, the Returning Officer shall collect the ballot papers from such receptacle.

- i) Upon collecting the same the Returning Officer shall, in the presence of the scrutineers (if so requested), count all the votes cast and, subject to paragraph (j) of this Sub Rule, declare the result of the ballot.
 - j) If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows.
 - (A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.
 - (B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.
 - (C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw. ~~In the event of a tie occurring, the result shall be determined by the Returning Officer drawing lots in the presence of the tied candidates.~~
 - k) Upon declaration of the ballot, the Returning Officer shall seal and retain all ballot papers for a period of twelve (12) months after the conduct of the ballot.
- 4) Casual Vacancy
- a) Where a casual vacancy (howsoever occurring) arises in the office of President, Vice President, Secretary/Treasurer or any of the Executive Members then the Secretary/Treasurer or in the case of casual vacancy in the office of Secretary/Treasurer, the President, shall take immediate action to have such vacancy filled provided that:
 - (i) Where the unexpired portion of the term of office in which the vacancy occurs does not exceed three quarters of the term, the Executive may fill such vacancy by appointment of an eligible member of the National Council; and
 - (ii) Where the unexpired portion of the term of office in which the vacancy occurs exceeds three quarters of the term, the Executive may fill such vacancy by appointment of an eligible member of the Association until an election is held, provided that no person so appointed shall hold office for a period exceeding three months.
 - b) Such election shall be conducted by secret postal ballot of the members of the National Council by the Returning Officer appointed pursuant to Rule 94(6), and the Returning Officer so appointed shall determine the dates for the opening and closing of nominations and the ballot. The Returning Officer shall report the result of the election to the next following meeting of the Executive.

- c) Any person so elected shall take office from the date of the declaration of their election and shall hold office until the expiration of the term of the person they replaced.
- d) In all other respects such election shall be conducted in accordance with the provisions of this Rule.

5) System of Voting

- a) The system of voting in any election conducted pursuant to this Rule shall be the first-past the post system.
- b) A voter shall record their votes by marking sequential numbers on the ballot paper, commencing with the number 1, in the squares opposite the names of the candidates so as to indicate the order of the voter's preference for each candidate, provided that failure by a voter to mark a preference beyond the number of candidates to be elected shall not invalidate the vote of that voter.

6) Returning Officer

Subject to the requirements of the *Fair Work (Registered Organisations) Act 1999*:

- a) At its first meeting after the certification of these Rules, the Executive shall appoint a Returning Officer for the conduct of any elections, ballots or plebiscites as may be necessary throughout the ensuing period provided that a duly appointed Returning Officer shall hold office until a successor thereto is duly appointed.
- b) A Returning Officer:
 - (i) Need not be a member of the Association; and
 - (ii) In any event, shall not be the holder of any office in or an employee of the Federation, Association or any Zone of the Association.
- c) 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 ballot or plebiscite or not, the Executive shall appoint another person to act as Returning Officer for that election, ballot or plebiscite.
- d) The Returning Officer shall have power to appoint such assistants as deemed necessary provided that such assistants shall at all times be subject to the absolute control and direction of the Returning Officer.

7) Scrutineers

Any candidate may if they so desire appoint a scrutineer who is a financial member of the Association, to represent them at the ballot. The candidate appointing the scrutineer shall, before

the closing of nominations, notify the Returning Officer in writing of the name of such scrutineer, who:

- a) 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 votes or queries;
- b) Shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election;
- c) Shall not interfere with or attempt to influence any member at the time such member is casting their vote.

8) Absent Voting

A member who is entitled to vote and who will be absent during the conduct of the ballot may apply for an absent vote by lodging with the Returning Officer, prior to the National Council meeting, a written request for an absent vote, together with an address at which they can receive communications. The Returning Officer shall forward a ballot paper to the address so specified and shall notify the member of the closing date for the absent vote to be lodged.

95 - ZONE ELECTION RULE

1) General

The provisions of this Rule shall apply to all elections for the following offices in a Zone:

- a) Zone Convenor; and
- b) Workplace Delegate

2) Tenure of Office and number of offices

- a) Where an established Zone exists, Zone Convenors and Workplace Delegates, who are Delegates to National Council in accordance with Rule 72 (3), shall be elected by secret postal ballot of all financial members within their respective Zones. They shall take office from the declaration of their election and shall hold office for a period of two years or until a successor thereto has been elected and taken office.
- b) Where a new Zone is established under Rule 85(2), Zone Convenors and Workplace Delegates, who are Delegates to National Council in accordance with Rule 72(3), shall be elected by secret postal ballot of all financial members within the new Zone. They shall take office from the declaration of their election and shall hold office for a period pre-determined by the Executive which ensures that the expiry date of the term of office is synchronised with the majority of the established Zones of the Association.
- c) The number of Workplace Delegates to be elected for each Zone shall be determined in accordance with the formula in Rule 72 (3) as at the date of the close of the roll of voters for each election for those offices.

3) Qualifications for Office

A nominee for any office in a Zone shall be a financial member of the Association and allocated to that Zone as at the date of their nomination.

3A) A member may not vote, nominate candidates for election or nominate for election in any Zone other than the one to which that member has been allocated by the Secretary/Treasurer pursuant to Rule 64 prior to the close of the roll (“the closure”) unless the Secretary/Treasurer declares in writing to the Returning Officer before the calling of nominations that:

- (i) the allocation of that member to that Zone prior to the closure of the roll did not conform to the requirements of the applicable National Executive resolution (“the relevant Resolution”) in effect at the time that the Secretary/Treasurer made the allocation; or
- (ii) subsequent to the allocation and prior to the closure the employment circumstances of the member had altered to such an extent that compliance with the relevant Resolution required the allocation of that member to another Zone

- in which case the member shall be reallocated to the correct Zone and may vote, nominate candidates for election and stand for election in that Zone.

4) Returning Officer

The Returning Officer is appointed in accordance with Rule 94(6).

5) Conduct of Elections

The Call for Nominations

- a) Not later than the 1st day of June in the year of an election, the Returning Officer shall call for nominations by circular (which may be by electronic means) to all eligible members of the Zone under this Rule, or by advertisement in a daily newspaper and/or Union Journal circulating throughout the State or Territory in which the Zone has members, and shall publish nomination forms on the Association’s website and issue nominations forms to any financial member requesting the same.
- b) Nominations shall be in writing, signed by the nominee and the nominator (who shall be a financial member of the ~~Zone~~Branch) and shall be delivered to the Returning Officer at the address or in the manner (including electronic form) specified in the circular calling for nominations not later than 5pm on the 1st day of July in the year of the election.

bA) Nominations may be withdrawn up to and including 5 working days after the time and date the Returning Officer has declared that nominations shall close. The withdrawal of such nomination shall be in the form determined by the Returning Officer and shall be signed by the nominee.

Nominations Close

- c) 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 finding a defect in any nomination the Returning Officer shall before rejecting the nomination notify the person concerned of the defect, and, where practicable give them the opportunity of remedying the defect in not less than seven days after the person is notified.
- d) If there are not more nominations than there are vacancies for a position, they shall declare the nominated person or persons elected to the position.

Preparation for an Election: the Preparation of Ballot Papers

- e) If more nominations are received than there are vacancies for a position, they shall have ballot papers printed and delivered to them containing the names of the candidates for each position in order determined by lot, indicating the number to be elected to each position, the manner in which votes shall be recorded, and the date and time of closing of the ballot such date being not later than the 31st day of August immediately following the closing of nominations. The roll of voters for the ballot is to be closed twenty-one (21) days before the day on which nominations for the election open.
- f) The Returning Officer shall be responsible for the safe custody of the ballot papers.
- g) They shall obtain from the printer a certificate of the number of ballot papers printed.
- h) They shall initial every ballot paper prior to its distribution.

Arrangements for the Receipt of Ballot Material

- i) The returning officer shall, for the purposes of receiving ballot material in respect of a ballot, use a private box or other secure postal facility at a post office or mail centre. Access to the private box mentioned in this rule shall be limited to:
 - Persons authorised by Australia Post,
 - The returning officer, and
 - Persons authorised in writing by the returning officer.

The Delivery of Ballot Papers to Eligible Voters

- j) On or before the opening day of the ballot the returning officer shall forward ballot material in a sealed envelope by prepaid post to each person on the roll of voters at the address shown on the roll of voters.
- k) Ballot material shall include:
 - a) one or more ballot papers showing the time and date of the close of the ballot

- b) a Reply-Paid envelope addressed to the private box referred to in the rule, being an envelope that may be posted without expense to the voter,
- c) an inner 'Declaration Envelope' as prescribed by the Act, suitable for containing the ballot papers.
- d) ~~a copy of each statement submitted by candidates under rule 15.~~

Lost, Destroyed or Spoilt Ballot Papers

- l) Where a member whose name is on the roll of voters claims that the ballot material has not been received or has been lost, destroyed or spoilt, the member may make an application to the Returning Officer for the issue of replacement ballot material
- m) The application shall
 - be in writing
 - set out the applicant's full name and postal address
 - set out the grounds on which the application is made
 - contain a declaration that the applicant has not voted in the ballot
 - be accompanied, if practicable, by any evidence that is available of the loss, destruction or spoiling of the ballot material.
- n) If the returning officer is satisfied that the information contained in the application is true and correct, the returning officer shall issue replacement ballot material to the applicant.

The Safe Custody of Ballot Papers that are Returned

- o) During the course of the ballot the returning officer may collect returned envelopes from the private post box and keep them in safe custody until the commencement of the scrutiny. The returning officer shall make a final clearance of returned envelopes so that all envelopes received by the returning officer prior to the closing time for the ballot are admitted to the scrutiny. No envelopes returned after the close of the ballot shall be admitted to the scrutiny.

The Scrutiny of Ballot Papers

- p) The returning officer shall conduct a preliminary scrutiny of returned declaration envelopes to ensure that only one returned envelope from each eligible voter is admitted to the count. The returning officer may commence the preliminary scrutiny prior to the close of the ballot.
- q) Before proceeding to count the votes to ascertain the result of the ballot, the returning officer shall:

- remove the 'Declaration Envelope' from the Reply-Paid envelopes, and
 - examine the voter's declaration attached to each 'Declaration Envelope' and mark off the voter's name against a copy of the roll of voters.
- r) A voter's returned ballot material shall be rejected and set aside if:
- ▪ the 'Declaration Envelope' has not be returned, or
 - ▪ the voter has not completed the declaration on the 'Declaration Envelope' to satisfy the returning officer,
 - ▪ the voter is ineligible to vote, or
 - ▪ the returning officer is unable to identify the voter on the roll of voters.
- s) Where a voter returns more than one set of ballot material, only one set of ballot material shall be admitted into the count. The returning officer shall decide which set of ballot material is to be rejected.
- t) The returning officer note shall on the ballot material that it has been rejected and the reason for rejection and set it aside for separate custody.
- u) When the returning officer has determined which declaration, envelopes are accepted for the count, the declaration section of each envelope is detached and removed so that the envelope can no longer be identified. Each envelope shall then be opened, and the ballot papers extracted to be counted.
- v) The returning officer shall reject as informal a ballot paper that:
- Does not bear the initials or other authenticating mark of the returning officer, and/or
 - Has upon it any mark or writing by which the voter, can be identified, and/or
 - Is not marked substantially in accordance with the instructions included on the ballot paper, and/or
 - The marking is such that the intention of the voter is not clear, and/or
 - Is not returned inside the declaration envelope.
- w) Where, during the ballot, the returning officer is informed by a scrutineer that the scrutineer objects to a returned envelope or a ballot paper being accepted or rejected, the returning officer shall decide whether the returned envelope or ballot paper is to be admitted all rejected and endorse the decision on the envelope or ballot paper. The decision of the returning officer is to be final.

Tied Vote

- (x) If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows.
 - (A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.
 - (B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.
 - (C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw.

The Returning Officer's Report to the Executive Meeting

- (y) The Returning Officer will provide a report of the result of the election for the next Executive Meeting and shall submit to that meeting a full report of the ballot indicating the number of ballot papers printed, the number distributed and the number on hand and any other relevant matter.

Eligible members

- (z) Eligible members under this Rule shall be the financial members of the Zone.

6) Scrutineers

Any candidate may if they so desire appoint a scrutineer who is a financial member of the Association to represent the candidate at the ballot. The candidate appointing the scrutineer shall notify the Returning Officer in writing of the name of such scrutineer, who:

- a) 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 votes so queried;
- b) Shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election; and
- c) Shall not interfere with or attempt to influence any member at the time such member is casting their vote.

7) Casual Vacancies

- a) Where a casual vacancy, howsoever occurring in the office of
 - (i) Zone Convenor; and
 - (ii) Workplace Delegate
 - b) The Executive shall take immediate action to have such vacancy filled by secret postal ballot of all financial members of the Zone provided that:
 - (i) Where the unexpired portion of the term of office in which the vacancy occurs does not exceed one year, the Executive may fill such vacancy by appointment of a financial member of the zone; and
 - (ii) Where the unexpired portion of the term of office in which the vacancy occurs exceeds one year, the Executive may fill such vacancy by appointment of a financial member of the zone until an election is held, provided that no person so appointed shall hold office for a period exceeding three months.
 - c) Such election 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 Executive.
 - d) Any person so elected shall take office from the date of the declaration of their election and shall hold office until the expiration of the term of the person they replace.
 - e) In all other respects, the election shall be conducted in accordance with the foregoing provisions of this Rule.
- 8) System of Voting
- a) The system of voting in any election conducted pursuant to this Rule shall be the first-past-the post system.
 - b) A voter shall record their vote by marking sequential numbers on the ballot paper, commencing with the number 1, in the squares opposite the names of the candidates so as to indicate the order of the voter's preference for each candidate, provided that failure by a voter to mark a preference beyond the number of candidates to be elected shall not invalidate the vote of that voter.

9) Absent Voting

A member who is entitled to vote and who will be absent during the conduct of the ballot may apply for an absent vote by lodging with the Returning Officer prior to the distribution of ballot papers a written request for an absent vote together with an address at which they can receive communications. The Returning Officer shall forward a ballot paper to the address so specified and shall notify the member of the closing date for an absent vote to be lodged.

96 – DUAL OFFICES

- 1) In the event of a candidate being elected pursuant to Rule 94 to more than one office as defined in Rule 72 or in the event of a candidate being elected to more than one office pursuant to Rule 95, that candidate shall be declared elected to the higher or highest of such offices.
- 2) For the purposes of this Rule, the order of precedence shall be:
 - a) In the case of the offices referred to in Rule 72:

President

Vice-President

Secretary/Treasurer

Executive ~~member~~Member
 - b) In the case of the offices referred to in Rule 95:

Zone Convenor

Workplace Delegate
- 3) ~~If a candidate declared elected to a higher office is a candidate for election to a lower office, the Returning Officer shall disregard any primary vote cast for that candidate in the election for the lower office and shall allocate, according to the order (if any) expressed by the voter, the vote of the voter to the next candidate indicated who has not been declared elected to a higher office. A vote so allocated shall be counted as a primary vote for the candidate to whom it is so allocated.~~
- 4) ~~Where more than one vacancy for a position is to be filled, the preferences marked to the number of vacancies to be filled shall be primary votes and shall have equal value and shall be allocated to the candidates for whom they are cast.~~
- 5) No member shall simultaneously hold office as an Association Executive Officer, Zone Convenor, or Workplace Delegate provided that in respect of any Zone falling within paragraph (i) of Rule 72 (3), the delegate shall also be the Zone Convenor.

97 - ELECTION OF ASSOCIATION DELEGATES TO FEDERAL COUNCIL

- 1) The delegates to Federal Council representing the Association shall be the President and, depending on the application of the formula set out in Rule 14 of the Federation Rules, the other Association Executive Officers.
- 2) The order of Association Executive Officers for the purpose of Rule 97(1) shall be:

- a) the President;
- b) the Vice President;
- c) the Secretary/Treasurer
- d) Executive ~~members~~ Members in order of election.

CHAPTER 5 – ASSETS AND FINANCE

98 - ASSOCIATION FUNDS AND PROPERTY

- 1) The funds and property of the Association shall consist of:
 - a) Any real or personal property of which the Association 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;
 - b) The amounts of fees, subscriptions and levies payable to the Association pursuant to these Rules; less so much of the amounts as is payable by the Association to the Federal funds as defined;
 - c) Any interest, rents, dividends, or other income derived from the investment or use of such funds and property;
 - d) Any superannuation or long service leave, or other funds operated or controlled by the Association as a whole in accordance with these Rules for the benefit of its officers or employees;
 - e) Any sick pay funds, accident pay funds, funeral fund or like funds operated by the Association as a whole in accordance with these Rules for the benefit of its members;
 - f) Any property acquired wholly or mainly by expenditure of the moneys of such funds and property or derived from other assets of such funds and property; and
 - g) The proceeds of any disposal of parts of such funds and property.
- 2) The funds and property of the Association shall be controlled by the Executive which shall have power to expend the funds of the Association for the purposes of carrying out the objects of the Association. For the expenditure of the funds of the Association on the general administration of the Association and for purposes reasonably incidental to the general administration of the Association, the prior authority of the Executive shall not be necessary before cheques are signed or accounts paid.
- 3) Fees, subscriptions and levies shall be paid to the General Manager.

- 4) Prior to the commencement of the financial year, the General Manager shall submit for consideration and determination by the Executive a proposed budget for the forthcoming financial year. The Executive shall be responsible for the allocation of Association funds.
- 5) The financial year of the Association shall end on the 30th Day of June in each year.
- 6) The Executive will develop and approve policies in relation to the expenditure of the Association's funds and management of its property, including policies to ensure fiduciary prudence in these matters.

99 – LOANS, GRANTS AND DONATIONS

Notwithstanding any other provisions of these Rules, the following shall apply in relation to the Association giving any loans, grants and donations:

- 1) No loan, grant or donation of an amount exceeding \$1,000 shall be made unless the Executive is satisfied:
 - a) That the making of the loan grant or donation would be in accordance with the other Rules of the Association; and
 - b) 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.
- 2) Notwithstanding Sub Rule (1), the President may authorise the making of a loan, grant or donation of an amount not exceeding \$3,000 to a member of the Association if the loan, grant or donation:
 - a) Is for the purpose of relieving the member or any of the member's dependants from severe financial hardship; and
 - b) Is subject to a condition to the effect that, if the Executive at its next meeting does not approve the loan, grant or donation, it shall be repaid as determined by the Executive.
- 3) In considering whether to approve a loan, grant or donation under Sub Rule (2), the Executive shall have regard to:
 - a) Whether the loan, grant or donation was made under the Rules of the Association; and
 - b) In the case of a loan:
 - (i) The security (if any) given for the repayment of the loan is adequate; and
 - (ii) The arrangements for the repayment of the loan are satisfactory.
- 4) Nothing in this Rule is intended to apply to or prevent the reimbursement of out-of-pocket expenses incurred by persons for the benefit of the Association.

100 – ASSOCIATION AUDITOR

The Association Auditor shall:

- 1) Be appointed annually by the Executive, and may only be removed by the Executive during their term of appointment by a special resolution of the Executive;
- 2) Perform such functions and duties as are prescribed by the RO Act including the yearly audit of the Association's accounts and such other functions and duties not inconsistent with the RO Act as are required by the Executive;
- 3) Have access to examine if desired all books, papers, deeds, documents and accounts of the Association and be empowered to question any office bearer or officer or employee of the Association with regard to the same and to obtain from any financial or other institution at which the funds of the Association are deposited or invested, such information as they may require; and
- 4) Have power to place before the Executive any suggestion they may desire to make concerning financial affairs of the Association.

CHAPTER 6 – ALTERATIONS OF RULES

101 – MAKING OR ALTERATION OF ASSOCIATION RULES

Subject to Rule 34(b) of the Federation Rules:

- 1) The National Council shall have power to make new Rules or to add to, amend, rescind or otherwise alter these Rules by resolution carried by a majority of members voting at a meeting of the National Council or by postal ballot of the members of the National Council conducted pursuant to these Rules.
- 2) ~~Notice~~ Notwithstanding the provisions of Rule 76 (3) and Rule 79 (5) of these Rules, notice of any proposal for the making of a new Rule or for the adding to, amendment, rescission or other alteration of any of these Rules shall be given in writing to each member of the National Council at least fourteen days ~~one month~~ prior to the relevant meeting of the National Council or to the commencement of the postal ballot (as the case may be) provided that any such proposal may itself be amended when being considered by the relevant meeting of the National Council.
- 3) The ~~President~~ Secretary/Treasurer shall within thirty-five (35) days of the making, addition to, amendment or rescission of these Rules file with the Fair Work Commission full particulars of the alteration in such form and manner that the Commission's representative is able to form an opinion whether or not the alteration can be certified.
- 4) The President shall as soon as practicable, but not later than seven (7) days after filing particulars with the Fair Work Commission pursuant to Sub Rule (3) of this Rule, forward to the Executive a

true copy of the said particulars and a copy of all correspondence and documents with respect to the FWC General Manager's dealing with the alteration.

CHAPTER 7 – OTHER MATTERS

102 – ARBITRATION PROCEEDINGS AND INDUSTRIAL AGREEMENTS

Without affecting the operation of Rules 15 and 28 of the Federation Rules:

- 1) The Executive shall have the power and authority to lodge or file any claims, demands, disputes or other matter with the Fair Work Commission or such other court or authority as it may deem necessary in the interests of the Association or any member or group of members.
- 2) The Executive may authorise the Secretary/Treasurer, any Association Officer or an Association employee to lodge any such claim, demand, dispute or other matter and to authorise that Officer or employee, or any other person, to represent the Association in the conduct of proceedings arising from such lodgement.
- 3) The Executive shall have power and authority to negotiate and enter into industrial agreements for the members of the Association. Any such agreement shall be signed either by the President as authorised by the Executive to do so.

103 – INSPECTION OF BOOKS & CONSIDERATION OF FINANCIAL REPORTS

Any financial member of the Association may at a reasonable time during normal office hours inspect the audited financial returns and membership records of the Association upon giving the Secretary/Treasurer seventy-two (72) hours' notice of their wish to do so.

104 – MEMBERS ENGAGED ON ASSOCIATION BUSINESS

- 1) Should any member of the Association lose any part of their salary or wages or be required to work extra time in consequence of their having been engaged on the business of the Association or their Zone under instructions from the Executive or their Zone Committee as the case may be, the Association shall make good all such loss or shall remunerate the member at their rate of salary for the time occupied by them whilst so engaged. Reasonable out-of-pocket expenses shall be allowed for members engaged on Association or Zone business.
- 2) Any Officer or member transacting business on behalf of the Association or any Zone thereof shall report on such business to the body which appointed them to carry out such business. Any such Officer or member neglecting to make such report may forfeit all claims for any time lost and expenses incurred whilst so engaged in such business.

105 – LEGAL ASSISTANCE

- 1) The Association may provide legal assistance to a member for any matter directly or indirectly connected with or having an impact or effect upon the performance of duty by the member in the AFP, or for any other matter affecting the member.

- 2) The National Council shall determine, and when necessary amend the scheme for the provision of legal assistance to members, and such scheme as it provides from time to time will be published by the Association on its website.

106 – STANDING ORDERS AND RULES OF DEBATE

The Executive shall determine from time to time the standing orders and Rules of debate to apply to meetings of the Association. A copy of such standing orders and Rules of debate as determined from time to time shall be supplied free of charge by the Secretary/Treasurer or by a Zone Convenor to any financial member of the Association requesting the same.

107 – GENERAL MANAGER

- 1) The Executive shall appoint a suitably qualified person (who need not be a member of the Association) to be employed full time as General Manager of the Association, on terms and conditions determined by the Executive, but subject to the subsequent provisions of this Rule.
- 2) The maximum term of appointment to the position of General Manager must not exceed three (3) years, although a further contract or contracts not exceeding such a term may be offered to such an employee if that person's performance, in the opinion of the Executive, justifies such further contract or contracts; however, no one person may be continuously employed by the Association as General Manager, or in any other position of similar character and rank for more than ten years, unless the Executive decides to do so by a special resolution.
- 3) The Executive must retain the right to terminate the employment of the General Manager:
 - a) Summarily for cause; or
 - b) On notice without cause, such notice not to exceed three (3) months, or payment in lieu thereof.
- 4) The full list of the duties of the position of General Manager will be determined by the Executive from time to time, but without limiting the duties that may be so assigned shall include the responsibility of managing and administering the National Office and the Association's employees and may include any of the duties of the Secretary/Treasurer under these Rules (including that of being a signatory to any Association account).
- 5) Provided that:
 - a) Any of the duties of the Secretary/Treasurer delegated to the General Manager shall be performed by the latter under the supervision or at the direction of the Executive for the purpose of carrying out the policies of the Association or the decisions of the Executive;
 - b) Any delegation of any of the duties of the Secretary/Treasurer to the General Manager may be subject to exceptions, either generally or for particular occasions, or may be wholly or partially revoked by resolution of the Executive at any time;

- c) Responsibility for all acts and omissions done pursuant to any such delegation shall remain that of the Executive or the Secretary/Treasurer, as the case may be; and
- d) The Secretary/Treasurer shall be and remain the prescribed officer of the Association responsible for the keeping of all registers and the filing and furnishing of documents required by the RO Act.

108 – TRANSITIONAL – ASSOCIATE MEMBERS

- 1) There shall be no associate member category of membership of the Association as and from the ~~date of certification of this Rule~~ 24 May 2017.
- 2) Any person who was an associate member of the Association as at 24 May 2017 ~~the date of certification of this Rule~~ may remain such a member until the Association, pursuant to resolution of the Executive, or the associate member concerned, give notice to the other party of termination or resignation, as the case may be, on not less than twenty eight (28) days' notice.

TAB 8



AFPA
Australian Federal
Police Association

**REVISED AFPA LEGAL ASSISTANCE
SCHEME
DISCUSSION PAPER**

National Council Discussion Paper

TO: National Council
FROM: Vince Kelly, General Manager
SUBJECT: AFPA Legal Assistance Scheme Amendments
DATE: 24 March 2020



BACKGROUND

AFPA Rule 105 states:

Rule 105 – LEGAL ASSISTANCE

- 1) *The Association may provide legal assistance to a member for any matter directly or indirectly connected with or having an impact or effect upon the performance of duty by the member in the AFP, or for any other matter affecting the member.*
- 2) *The National Council shall determine, and when necessary amend the scheme for the provision of legal assistance to members, and such scheme as it provides from time to time will be published by the Association on its website.*

On 21 March 2017 the National Council endorsed a Legal Assistance Scheme in accordance with this Rule. The National Council approved further amendments to the Scheme on 20 March 2019.

CURRENT SITUATION

As indicated the current Legal Assistance Scheme was approved by council following significant rules changes approved on the same date.

The scheme introduced much needed rigour and guidance for the granting of legal assistance to members. Since March 2017 the scheme has been managed as required by the underlying policy document.

The Legal Assistance Committee currently consisting of:

- Alex Caruana, (Vice President & Chair)
- Clare Fitzpatrick (Executive Member)
- Adrian Smith (Secretary/Treasurer)

have worked closely with the Manager Legal & Industrial and General Manager applying the schemes intent and underlying principles.

Due to the critical nature of Legal Assistance Scheme it is appropriate that the scheme is regularly reviewed.

The General Manager and Manager, Legal and Industrial have undertaken a further review of the scheme in consultation with Vice President, Alex Caruana.

The proposed amendments are mostly technical, grammatical and typographical, including adopting more consistent numbering and use of defined terms (such as “Legal Assistance”). However, there are a number of significant proposed additions and exclusions to the scheme:

- The AFPA will try to resolve members’ problems through representation, advocacy etc and other non-litigious methods (clauses 1.2 & 1.5)
- The day to day management of the Scheme is vested in the General Manager, or their delegate (clause 1.7). This has been changed from the Manager of Legal & Industrial, due to potential for a conflict of interest as the Manager of Legal & Industrial, in most cases, will provide advice to the Committee on an application made under the Scheme.
- Clarification that unfinancial members who are recruits in the College, who do not pay membership fees during the period of their time in the College, or other members who have been approved by the Association to be on a period where they are not required to pay membership subscriptions, are entitled to make an application for assistance under the Scheme (clause 2.1(b)).
- Clarification that a claim under the Fair Work Act 2009 (Cth) is a matter which assistance may be provided under the Scheme (clause 3.1(f)).
- If assistance is granted under the Scheme, absent express agreement by the Committee, the AFPA will not cover the costs of any adverse costs order made against a member who pursues a claim (clause 5.2).
- Confirming the type of assistance that may be provided by the AFPA for workers compensation claims clauses 5.3 – 5.7), including
 - Assistance through the employed staff of the AFPA in making a claim etc (clause 5.3)
 - The AFPA will not assist, absent exception circumstances (see clause 5.5), in providing assistance in challenging a decision of Comcare in Court (clause 5.4)
 - The AFPA will assist by providing a referral service to an external legal representative to challenge a decision of Comcare (clause 5.6)
 - The AFPA may provide some financial assistance for a member who challenges a decision of Comcare, and who will suffer actual financial hardship in pursuing a claim, by providing funding to cover the costs of disbursements, including medical and specialist reports or other disbursements, up to an amount of \$5,000.00, which may be extended if agreed by the Committee (clause 5.7)
- Changes to information to be contained in the report prepared by a legal representative to the Committee as to an application (clause 7.4)
- Clarifying that legal professional privilege attaches to some documents produced as part of the administration of a member’s application for Legal Assistance (clauses 7.5,
- Introduction of new conditions and restrictions that may be imposed by the Committee, including:
 - Funding up to a certain point in time in a proceeding (clause 8.2(c))
 - An agreement to mediate in relation to a claim (clause 8.2(e))
 - The Committee may require a member to have the AFPA act on their behalf through employed legal staff of the AFPA (clause 8.3(a)) or the AFPA commences

proceedings in its own name as an “employee organisation” under the Fair Work Act 2009 (Cth) (clause 8.3(b))

- Explicit requirement that the AFPA will not be liable for any costs incurred additional to a grant of Legal Assistance (clause 8.8)
- Outlining the circumstances when assistance may be withdrawn by the AFPA (clause 11), which has seen the introduction of more powers of the Committee to withdraw funding. This includes:
 - Assistance being withdrawn because a member fails to comply with a condition (clause 11.2(a));
 - The member ceases to be a financial member of the AFPA (clause 11.2(b)) or withdraws from membership (clause 11.2(c))
 - The member does not accept a reasonable offer in settlement of their matter (clause 11.2(d)), based upon the opinion of a legal representative or internally employed lawyer of the AFPA (clause 11.3)
 - The prospects of success in the matter (clause 11.2(e))
 - Continuance of assistance will adversely affect the interests of the membership of the AFPA (clause 11.2(f))
 - Introduction of provision concerning confidentiality and legal professional privilege (clause 14)

It is envisaged that these changes do not directly affect or impact on the assistance provided to members, rather in some limited cases will expand the scope of assistance.

The revised scheme is tabled, (Attachment A refers).

RECOMMENDATIONS

1. The National Council adopt the Legal Assistance Scheme as tabled.

TAB 9



AFPA
Australian Federal
Police Association

ATTACHMENT

REVISED LEGAL ASSISTANCE SCHEME



AFPA

Australian Federal
Police Association

AFPA LEGAL ASSISTANCE SCHEME

Document Summary

Original Document Prepared By: Special Projects Officer, Vince Kelly

Document Authorised By: AFPA 2017 National Council

Review Date:

Version	Date
002	2020

Change Summary:

Version	Effective	Change Description	Updated/Approved By
001	21 March 2017	Document Created AFPA Legal Assistance Scheme Approved	Vince Kelly, Special Projects Officer AFPA 2017 National Council
002	2 August 2018	Amendments to Clauses 2, 3, 5(1), 6 and 7	Vick Linabury, Manager Legal and Industrial
	3 September 2018	Approved	AFPA National Executive
	21 March 2019	Approved	AFPA 2019 National Council

AFPA LEGAL ASSISTANCE SCHEME



1 PREAMBLE

1.1 The Legal Assistance Scheme (“**the Scheme**”) is established in accordance with Rule 105 of the registered rules of the Australian Federal Police Association – a branch of the Police Federation of Australia (“**the Association**”). Rule 57(1)(l) of the Association’s rules states “Legal Assistance” shall mean:

- a) the provision of legal advice and representation of a member by a legally qualified employee of the Association, at no cost to that member apart from their fees; and/or
- b) the provision of funding for or toward the legal costs (including expenses and disbursements) of a member by one or more legal practitioners engaged to provide legal services to that member.

1.2 The Association will generally try to resolve members’ employment related problems through representation, advocacy, negotiation and collective action. However, sometimes it is not possible for resolution to occur in this way and, therefore, a legal approach is necessary.

1.3 The Scheme is designed to:

- a) assist members who may encounter employment related problems requiring legal expenditure; and
- b) to define the circumstances in which in-house legal services will be provided to a member.

1.4 The Scheme is not an insurance policy and there is no express entitlement or obligation for the Association to grant Legal Assistance. Rather, the Association retains an absolute discretion to provide Legal Assistance, noting the finite resources of the Association and

the obligation to apply members' funds in a manner consistent with moral and fiduciary obligations to the membership.

- 1.5 The Scheme is intended to offer members financial assistance for legal fees or associated legal expenses or costs that arise from their employment relationship with the Australian Federal Police or activities undertaken on behalf of the Association in connection with their role within the Association. While assistance may be available to pursue a matter, it is also important to attempt to resolve issues in other ways which may be more effective or appropriate in the circumstances.
- 1.6 The overall responsibility for administration of the Scheme rests with the Executive of the Association.
- 1.7 The day to day management of the Scheme is the responsibility of the General Manager or their delegate in consultation with the Legal Assistance Committee Chair.
- 1.8 Authority for the granting of Legal Assistance is delegated to the Legal Assistance Committee, subject to the principles and requirements set out in this policy.

2 ELIGIBILITY OF APPLICANT

- 2.1 Legal Assistance under the Scheme is only available to:
 - a) A financial member of the Association at the time of the incident relevant to the application for assistance.
 - b) An unfinancial member who:
 - is using a period of approved leave without pay from the AFP and was at the time that leave commenced, a financial member of the Association ;
 - Is a recruit in the College and the incident occurs while they are a member of the Association; or
 - Has been approved by the Association to be on a period where they

are not required to pay membership subscriptions.

- c) A former member who, at the time of the incident relevant to the application, was a financial member of the Association.
- d) The spouse, partner or dependent of a deceased member in relation to a claim or an issue concerning the deceased member, who, at the time of the death of the deceased member was a financial ordinary member of the Association, in respect of an issue that arose from the deceased member's employment relationship with the AFP.
- e) The estate of a former member in circumstances where a claim for, or against, the estate arises out of the death of the member while in the course of his/her employment.
- f) A member of the Executive, an elected delegate or an employee or servant of the Association, who becomes a party to any legal proceedings as a result of pursuing the aims and objectives of the Association.

2.2 Financial assistance or in-house legal services will not be provided to:

- a) A non-member; or
- b) An unfinancial member, save for the exceptions in clause 2.1(b).

3 TYPES OF MATTERS COVERED

3.1 Legal Assistance may be granted to an eligible person under clause 2 in relation to matters directly arising from the member's employment, except as outlined in clause 13, in relation to the following kinds of matters:

- a) to defend a criminal matter if exceptional circumstances exist as per sub-clause 4(1)(a) of the Scheme and approved in accordance with Clause 6 and 7 of this Scheme;
- b) in obtaining legal advice or to pursue a review concerning any proposed or

potential legal or administrative proceedings relating to a matter arising under *Australian Federal Police Act 1979*;

- c) to seek an advice or an opinion, which becomes and will remain the property of the Association, providing that the matter:
 - (i) is of significant importance to the Association;
 - (ii) is of general interest to the broader membership; and
 - (iii) has the potential to significantly affect the way the Australian Federal Police performs or conducts business.
- d) for a Coronial inquest or inquiry;
- e) to obtain an advice or pursue a review of or to appeal to a relevant court, tribunal, commission or body against a decision of the Commissioner to remove, demote, terminate, transfer, suspend or take any other employment action under the *Australian Federal Police Act 1979* or other related legislation;
- f) to obtain an advice or pursue a claim under the *Fair Work Act 2009* (Cth);
- g) to pursue a matter before any court, tribunal, commission or body that has jurisdiction over discrimination or harassment laws;
- h) for representation during any enquiry by a Federal, State or Territory Ombudsman, Tribunal or Commission;
- i) for any matter where the Legal Assistance Committee believes assistance should be provided in the interests of the membership and in accordance with the Objects of the Association's Rules; and
- j) for any matter arising in a jurisdiction outside Australia which arose during a member's deployment to that place as part of their duties with the AFP.

4 CIRCUMSTANCES FOR GRANTING LEGAL ASSISTANCE

4.1 Legal Assistance shall only be provided where:

- a) The act or the omission that gives rise to the need for Legal Assistance was done, made or undertaken by the applicant lawfully or in good faith, and in the course of or in the discharge of the applicant's duties.

To make it clear, a matter referred to above includes any act or omission so defined where the member is not undertaking a rostered shift of duty but is nevertheless acting in his or her official capacity as an employee of the AFP;

- b) Undertaking activities on behalf of the Association;
- c) No aid or assistance was approved or granted to the applicant by the AFP or the Crown;
- d) Assistance is provided by the AFP and the Legal Assistance Committee considers that such aid or assistance is inadequate in the circumstances; and
- e) The applicant agrees to be bound by the Clauses of this Scheme.

4.2 Irrespective of meeting other criteria, an application may be rejected by the Legal Assistance Committee if it is determined that:

- a) Providing Legal Assistance is not in the general interests of the membership;
- b) The potential cost of the assistance is disproportionate to the member's desired outcome or likely outcome; or
- c) The Association seeks independent legal advice, including the advice of a legally qualified Association employee, about the merits of the matter which advises that the matter is without reasonable prospects of success.

5 LIMITATIONS

5.1 Generally, the Association will not fund or provide Legal Assistance in:

- a) Civil proceedings; or

b) Pleas of guilty.

5.2 If an application for Legal Assistance is granted, generally the assistance will not extend to covering the cost of any adverse costs order made against the member granted assistance. The Legal Assistance Committee may, at their sole discretion and based on a consideration of whether the matter is of significant important to the Association and the likely costs to be incurred, agree to cover all or some costs associated with an adverse costs order made against the member in the proceedings which Legal Assistance has been granted.

5.3 The Association shall, where possible and at the request of the member, assist a member through the provision of in-house assistance through the Association's employed legal and industrial staff in relation to a worker's compensation claim. The Association's employed legal and industrial officers will provide advice and assistance on:

- a) Entitlements under the *Safety, Rehabilitation and Compensation Act 1988* (Cth);
- b) Lodging a claim;
- c) Seeking a reconsideration of a decision made by Comcare;
- d) Rehabilitation; and
- e) Return to work process.

5.4 Absent exceptional circumstances, the Association will not:

- a) Provide Legal Assistance for an appeal to challenge a decision by Comcare to the Administrative Appeals Tribunal or any other Court or Tribunal; or
- b) Provide in-house Legal Assistance in making an appeal to challenge a decision by Comcare to the Administrative Appeals Tribunal or any other Court or Tribunal.

5.5 For the purposes of clause 5.4, whether exceptional circumstances exist is at the sole discretion of the Legal Assistance Committee but will generally be limited to matters which involve:

- a) A significant issue of law and/or set a legal precedent which will impact on the broader membership; or
 - b) Impacts the rights or entitlements of the membership of the Association.
- 5.6 The Association will assist eligible members by providing a referral service to an external legal representative to pursue an appeal of a Comcare decision to the Administrative Appeals Tribunal or any Court or Tribunal.
- 5.7 Where a member requests assistance in relation to the member's worker's compensation claim, such assistance may be given where the member demonstrates that they will suffer actual financial hardship in pursuing their claim before the AAT. In such circumstances, the Legal Assistance Committee may provide limited Legal Assistance by paying for the costs in obtaining medical and other specialist reports, as well as other disbursements such as travel, sought by the member's legal representative in relation to the claim for worker's compensation through the decision-making processes and before the Administrative Appeals Tribunal or Federal Court. The maximum amount that may be approved is \$5,000.00, but this may be increased if deemed appropriate by the Legal Assistance Committee.

6 APPOINTMENT OF LEGAL ASSISTANCE COMMITTEE

- 6.1 The Legal Assistance Committee shall consist of the following:
- a) The Vice President, who will act as the Chairperson;
 - b) Two members of the Executive appointed by the Executive;
 - c) The Secretary/Treasurer shall be a reserve member of the Committee; and
 - d) The General Manager who shall be a non-voting ex officio member of the committee to provide guidance as required on the Association's financial position and approved budget.
- 6.2 The Legal Assistance Committee will be appointed at the first Executive meeting following the declaration of the Executive ballot conducted at the Association's Biennial

National Council meeting.

- 6.3 The Legal Assistance Committee will hold office until the declaration of the subsequent ballot conducted at the Association's Biennial National Council meeting and the appointment of the new Legal Assistance Committee.
- 6.4 The Executive may fill any casual vacancy on the Committee by the direct appointment of another Executive member.
- 6.5 If the Vice President is unavailable at any time the Secretary/Treasurer shall chair the Committee.

7 APPLICATION PROCESS

- 7.1 Applications for Legal Assistance must be in writing and addressed to the Association's General Manager and include relevant supporting documentation such as, but not limited, to:
 - a) any documents, including letters, notices or reports that relate to the matter for which Legal Assistance is sought; and
 - b) briefs of evidence for criminal matters or any other relevant information.
- 7.2 An application under this Clause can be made electronically.
- 7.3 On receipt of an application the General Manager will refer the application to the Association's Manager - Legal and Industrial or, in the event of the unavailability of that employee due to a conflict or other reason, another suitably legally qualified employee, or an external legal practitioner.
- 7.4 A report shall be prepared for the consideration of the Legal Assistance Committee by the nominated person and may include the following matters where relevant:
 - a) Eligibility of the applicant in accordance with Clause 2;
 - b) If the circumstances of the application meet the requirements of Clause 3;

- c) The nature of the claim;
- d) The complexity of the law and the facts involved;
- e) The value of the claim;
- f) The overall merits of the claim;
- g) The estimated cost of providing advice and/or assistance;
- h) The likely costs which may be awarded if a matter is unsuccessful;
- i) Any industrial relations, education or Association significance of the claim;
- j) Any relevant aspects of the Association's internal policies;
- k) The personal consequences of an adverse result on the applicant member, e.g. financial hardship or loss of employment;
- l) Whether an application for representation by the Crown has been made by the member in the first instance; and
- m) Whether assistance is in the general interest of the membership.

7.5 Subject to clause 14, the report prepared in accordance with clause 7.4 is protected by legal professional privilege and is retained by the Association. Such a report is not provided to the member, but may be provided to the member's external legal representative on request.

8 RESPONSIBILITIES OF THE LEGAL ASSISTANCE COMMITTEE

8.1 The appointed Legal Assistance Committee shall, on receiving the report prepared in accordance with clause 7.4, determine whether to provide Legal Assistance and determine such conditions and restrictions that attach to that Legal Assistance.

8.2 Conditions and restrictions which may be applied to the grant of Legal Assistance include, but are not limited to, the following:

- a) Member contributions to legal costs;
- b) A fixed maximum amount of funding towards legal costs;
- c) Funding up to a certain point or time in a proceeding;
- d) The engagement of Association preferred legal representative or counsel; and/or
- e) Agreement to mediate in relation to a claim.

8.3 The Legal Assistance Committee may also determine, if appropriate, that Legal Assistance for litigated matters is provided by:

- a) The Association acting on the member's behalf through its employed legal staff; and/or
- b) Commencing proceedings in the name of the Association on the member's behalf, as an "employee organisation" under the *Fair Work Act 2009* (Cth).

8.4 The Legal Assistance Committee may, in considering its decision, obtain any other information which it believes is relevant from any other source and may from time to time defer its decision until it has properly considered such information. Any costs incurred through such enquiry will be borne by the Association.

8.5 The Legal Assistance Committee should take into account, but is not bound by, precedent.

8.6 The Legal Assistance Committee shall, through the General Manager or his delegate, advise the applicant of its decision in writing to:

- a) Grant Legal Assistance, including any conditions the Legal Assistance Committee decides are appropriate; or
- b) Reject the application.

8.7 The Legal Assistance Committee may grant Legal Assistance to an ordinary financial member who, at the time of the act or omission that is alleged, was a non-member of the Association dependent on the current and previous personal circumstances of

the member and the likely costs of any assistance provided, as well as the prospects of success. The Legal Assistance Committee may require the advance payment of a service fee. The minimum fee, if imposed, shall be the equivalent of three months subscription fees for that member. A higher fee may be imposed by the Legal Assistance Committee. In these circumstances, consideration must also be given to the Association's 'Membership Services & Assistance Policy'.

- 8.8 The Association is liable only for funding that is expressly approved by the Legal Assistance Committee. Any costs incurred additional to a grant of Legal Assistance will not be paid by the Association.
- 8.9 An applicant or the applicant's legal representative is to immediately notify the Association's General Manager of any changes in circumstance which may affect the legal liability of the Association.
- 8.10 Where approval for funding is granted, an agreement will be signed by the General Manager and the applicant specifying the terms and conditions stipulated under Clause 7.4 of the Scheme.
- 8.11 The Legal Assistance Committee must approve if any alterations are sought by the applicant to the purpose of the original funding, with the original contract to be amended and signed by the respective parties if the alteration is agreed to by the Legal Assistance Committee.
- 8.12 The Legal Assistance Committee shall report on all decisions to each Executive meeting.
- 8.13 A contract entered between the General Manager and the applicant shall bind the applicant in terms of costs in any court proceedings as set out under Clause 10 of the Scheme.

9 REQUEST BY APPLICANT FOR REVIEW OF DECISION

- 9.1 The applicant may seek a review of the decision of the Legal Assistance Committee by application to a Review Committee, which is made up of the balance of the Executive who were not part of the Legal Assistance Committee who made the original decision

under review. Such an application must be made to the General Manager within 14 days of receiving notice of the decision in writing.

- 9.2 An application under Clause 9.1 may be submitted electronically to the Association's General Manager.
- 9.3 The Review Committee shall, upon receiving an application for review pursuant to Clause 9.1, conduct a review of the decision of the Legal Assistance Committee, and provide the applicant with an opportunity to submit written submissions supporting the application.
- 9.4 The Review Committee may also, at its absolute discretion, allow the applicant to be heard in private and question the applicant on the matter before making its decision.
- 9.5 The Review Committee shall then, through the Association's General Manager, in writing advise the applicant of its decision to:
 - a) Provide assistance to the member in the terms sought in the application; or
 - b) Reject the application for assistance on the terms sought in the application but grant assistance on alternative terms that the Review Committee sees fit; or
 - c) Reject the application for assistance.
- 9.6 If an applicant receives new material or information relevant to a rejected application, the applicant may make a fresh application under Clause 6.
- 9.7 The decision of the Review Committee in respect of legal assistance is final.

10 COSTS, AWARD OF DAMAGES & DISBURSEMENTS

- 10.1 If the grant of Legal Assistance includes a condition requiring the periodic payment of disbursements, and such disbursements are recoverable on completion of the applicant's action, such disbursements, when paid, are to be repaid to the Association.
- 10.2 An applicant who receives an award for costs or damages following the grant of legal assistance, shall be liable to refund to the Association any monies paid on the applicant's

behalf, arising from that matter, to the limit of the award received.

10.3 While a member may instruct a lawyer, the Association is to be advised by the applicant of any adjournment sought by a party and the reasons for such adjournment. Failure by the applicant to do this may result in funding being withdrawn.

11 WITHDRAWAL OF ASSISTANCE

11.1 Legal Assistance may be withdrawn at any time in circumstances where the Legal Assistance Committee considers that it is in the interests of the membership.

11.2 A decision to withdraw Legal Assistance may be made, but not limited to, the following circumstances:

- a) The applicant fails to comply with a condition of Legal Assistance set out in the Scheme;
- b) The applicant ceases to be a financial member of the Association due to reasons other than retirement/resignation from the AFP, commences a period of leave without pay or is otherwise granted a period where they are not required to pay membership fees by the Association;
- c) The applicant withdraws from membership of the Association or is deemed to have withdrawn from membership of the Association;
- d) The applicant fails to accept a reasonable offer in settlement of their matter;
- e) The prospects of success in the matter, based upon the advice of the applicant's external legal representative or an employed lawyer of the Association;
- f) If the continuance of such Legal Assistance is likely to adversely affect the interests of the membership of the Association as a whole.

11.3 In determining whether the member has failed to accept a reasonable offer, the Association may seek the opinion of an external legal representative or an internally employed lawyer of the Association. That opinion remains the property of the

Association and is protected by legal professional privilege.

12 PRESIDENT'S AUTHORITY TO GRANT ASSISTANCE

- 12.1 Notwithstanding anything to the contrary contained elsewhere within the Scheme, the President, or in the absence of the President, the Vice President, may upon a verbal or written application by any eligible person under the Scheme, grant and arrange for such legal assistance up to an amount not exceeding \$2,000.00 (exclusive of GST) without having to seek approval from the Legal Assistance Committee.
- 12.2 Without limiting the general application of Clause 12.1, assistance under that Clause shall be granted to a member seeking assistance with a response to an employment related matter or preliminary legal advice relating to a criminal matter to which the Scheme applies, where the relevant authorised office bearer believes such assistance is necessary or desirable.
- 12.3 Subject to Clause 12.4, any further funding of Legal Assistance over and above that amount must be approved by the Legal Assistance Committee in accordance with the provisions set out above.
- 12.4 Where Legal Assistance over the amount provided for in Clause 12.1 is required in an emergency and it is not possible for the eligible person to make a formal application in time, the President or Vice President may authorise further legal assistance until the Legal Assistance Committee has properly considered the matter. The eligible person shall give an undertaking to provide a written request for Legal Assistance as soon as practicable in accordance with this Scheme.
- 12.5 The Association shall be able to recover legal assistance granted under this Clause from the applicant where:
- a) The eligible person has not made a written application for assistance as required at Clause 12.4 and 12.7
 - b) The application for legal assistance is refused by the Legal Assistance Committee after due consideration of the matter in accordance with the formal application

provisions set out above; or

c) The conditions set out at Clause 12.6 are not adhered to by the applicant.

12.6 Legal Assistance under this Clause shall only be granted on condition that the Legal Assistance sought is obtained through a legal practitioner nominated by the President (or the Vice President in the absence of the President). Approval for further emergency assistance is limited to what is necessary in all the circumstances until the applicant has been afforded a reasonable opportunity to make an application for Legal Assistance in the manner ordinarily required under the Legal Assistance Scheme.

12.7 A verbal application made under this Clause will be reduced to writing as soon as practicable.

12.8 An application under this Clause may be made electronically.

12.9 The President or the Vice President shall report to the Executive all assistance approved under this Clause and any applications which have been denied.

13 INITIAL ADVICE – CRIMINAL ALLEGATION

13.1 Where a financial member is the subject of a criminal allegation the President, an employee acting at the direction of the President or in the absence of the President, the Vice President or Secretary/Treasurer, may authorise Legal Assistance associated with initial legal representation for that member. Such assistance is to be restricted to initial advice, attendance at any investigatory procedure, a bail application and, if required, a first mention in the court of summary jurisdiction.

13.2 Further applications and approvals will then be required in accordance with the Legal Assistance Scheme.

14 CONFIDENTIALITY AND LEGAL PROFESSIONAL PRIVILEGE

14.1 The Association will ensure that member's confidentiality and privacy is protected.

14.2 Legal professional privilege is attached to documents supplied by a member to the

Association for the purposes of an application for Legal Assistance in the following circumstances:

- a) Documents supplied by a member related to their claim to the Association for the purposes of a report being prepared by a legal qualified employee of the Association pursuant to clause 7.4 of the Scheme;
- b) Any report or supplementary report produced by a legally qualified employee of the Association pursuant to clause 7.4 of the Scheme or otherwise requested; or
- c) Any advice produced by a legally qualified employee of the Association to the Legal Assistance Committee or the Executive in relation to the prospects of success of a member's matter.



**Special National Council
DRAFT Minutes
Date: Thursday 24 June 2020
Time: 10:00 am – 11:25 am
Location: Zoom Teleconference**

Welcome

The President welcomed all National Council Delegates and thanked them for being present via ZOOM videoconference.

Delegates were advised on the technical procedures supporting discussion, presentations and voting protocols for resolutions.

Delegates were reminded that the AFPA Rules of Debate had been circulated with Agenda papers.

The President formally noted that the meeting was convened pursuant to Rules 76(2) and 79(3) of the AFPA Rules, and that a quorum is present.

Present

Angela Smith (President/Chair)
Alex Caruana (Vice President)
Adrian Smith (Secretary/Treasurer)
John Wong – Delegate
Lennon Thurtell – Delegate
Joshua Schwartz – Delegate
David Gooley – Delegate
David Clark – Delegate
David Power – Delegate
Jane Thompson – Delegate
Patrick Castle – Delegate
Jodie Green – Delegate
Troy Gordon – Delegate
Simon Canfield – Delegate
Brendan Castle – Delegate
Tim Murphy – Delegate
Nick Bryce – Delegate
Luke Houlihan – Delegate
Bridget O'Sullivan – Delegate
Scott Henderson – Delegate
Clare Fitzpatrick – Delegate
Mathew Tonge – Delegate
Ellanor Pavlovich – Delegate
Aaron De Zilva – Delegate
Eric Davies – Delegate
John Hawkins – Delegate
Rod Higgins – Delegate
Daniel Rodriguez – Delegate

Present continued

John Connoley – Delegate
Doug Witschi – Delegate
Simon Marriott – Delegate
Julian Laycock – Delegate
Tom Smith – Delegate
Martin Hess – Delegate
Jason Bryant – Delegate

Apologies

Kane Johnson
Peter Slater
Jonathan Bedford
Andrew Thorncraft
Mark Rowswell
Greg Hinds
Michael Travers
Luke Read
David Gale

Absent

Justin Bateman
Joel Goldring
Joshua Kinghorn
Vince Pannell
Sue Smith

Invited Guests

Ms Ariane Stark, Essential Media (*Technical support*)
Mr Peter Lewis, Essential Media

AFPA Staff

Vince Kelly, General Manager
Troy Roberts, Media and Government Relations Manager
Matthew Peterson, Legal and Industrial Manager
Brian McIver, Memberships and Marketing Officer
Chelsea Lawson, Reception and Administration Officer
Bob Clark, Business Services Administrator

AGENDA ITEM 1 – ENTERPRISE AGREEMENT 2021 REPORT

The report was presented by AFPA Media and Government Relations Manager with support from Peter Lewis of Essential Media.

Presentation updating delegates on recent AFPA Survey results and activities of EA 2021 Operational sub-committee in preparation for Enterprise Agreement 2021 operations.

This included an update on a proposed extension of the current Enterprise Agreement extension, based on a 4% pay rise over 2 years and no loss of conditions or entitlements.

This approach was endorsed by delegates in an informal poll.

AGENDA ITEM 2 – Amendments to the AFPA Rules

The Chair indicated that if no objections the proposed rule changes would be dealt with as a block. There were no objections to this course of action.

The AFPA General Manager spoke to the proposed rule changes and outlined the rationale for each.

Resolutions:

1. In the heading to Division 2 of Chapter 3, insert the words “Association Executive” before the word “Officers”
2. Alter the heading to Rule 72 by deleting the words “Officers of the” and inserting after the word “Association” the words “Executive Officers”.
3. Delete the contents of sub Rule (11) of Rule 72 and insert the following in their stead:
“All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary except:
 - a. for the office of President as prescribed by Rule 82; and
 - b. any office to which Rule 83 applies where the Executive resolves that such office be a paid position, and subject to any conditions contained in such resolution.”
4. Alter sub Rule (1) paragraph (a) of Rule 74 by inserting in that paragraph the word “Association” before the words “Executive Officers”, and deleting the words “of the Association”.
5. Alter sub Rule (3) of Rule 74 by inserting the word “Association” before the words “Executive Officers” and deleting the words “of the Association”.

6. Alter sub Rule (5) of Rule 75 by inserting the word "Association" before the words "Executive Officers" and deleting the words "of the Association".
7. Alter sub Rule (1) of Rule 80 by inserting the word "Association" before the words "Executive Officers" and deleting the words "of the Association".
8. Alter sub Rule (6) of Rule 81 by deleting the word "members" in the second sentence and inserting the word "Members" in its stead.
9. Alter Rule 82 by adding new sub Rules (3) and (4) in the following terms:
 - "3) In addition to the foregoing obligations, the President shall undertake full time the role of being principal spokesperson and public representative of the Association, with the principal place for the performance of those duties being at and from the location of the National Office as determined pursuant to Rule 54.
 - 4) The Office of President shall be a full time paid position on terms and conditions prescribed by resolution of the National Executive from time to time."
10. Alter Sub Rule (1) of Rule 83 by deleting the second sentence of that sub Rule and inserting the following words in its stead:

"Provided that:

 - c. a) if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive Members to act as Vice President until either that Officer or the President becomes available; or
 - b) if the President is unavailable for any reason and the Vice President either advises the General Manager in writing that they are unwilling to assume the duties of President or fails to take up those duties within seven (7) days of the requirement to do so arising, the Executive may appoint another member of the Executive to act as President until the President becomes available."
11. Further alter Rule 83 by adding new Sub Rule (3) in the following terms.

"(3)The Executive may resolve that any office to which this Rule relates shall be a paid position, provided that any such resolution must designate:

 - a. whether the position is full time or part time, and if the latter the hours and/or days of work;
 - b. the duties of the paid position;
 - c. the principal place at or from which the duties are to be performed;
 - d. the duration of the paid position; and
 - e. the terms and conditions for the position, including remuneration,

PROVIDED THAT:

 - f. The principal place at or from which the duties are performed shall be the National office as determined pursuant to Rule 54, unless the Executive resolves otherwise; and

- g. Any such resolution may be altered or rescinded at any time by the Executive, on not less than thirty (30) days notice to any incumbent.
12. Alter sub Rule (1) of Rule 85 by deleting the first sentence of that sub Rule and inserting the following words in its stead:
“Subject to the provisions of this Division the Executive of the Association may from time to time establish Zones of the Association.”
 13. Alter sub Rule (1) paragraph (a) of Rule 94 by deleting the word “and” where third occurring in the first sentence of that paragraph and inserting in its stead the words: “or the conclusion of the National Council meeting at which they were elected, whichever is the later. They”.
 14. Alter sub Rule (1) paragraph (b) of Rule 94 by deleting the first two sentences of that paragraph and inserting the following words in its stead:
“The Vice President, Secretary/Treasurer and the Six Executive members shall be elected by secret ballot by and from the National Council. The persons so elected shall take office from the declaration of their election or the conclusion of the National Council meeting at which they were elected, whichever is the later. Commencing from the elections to be conducted in 2021, they shall hold office for a period of four years or until a successor thereto has been elected and taken office.”
 15. Further alter sub Rule (1) paragraph (b) of Rule 94 by inserting in the last sentence of that paragraph the word “second” after the word “every” and before the word “biennial”.
 16. Delete sub Rule (1) (c) of Rule 94.
 17. Alter sub Rule (2) paragraph (a) of Rule 94 by deleting the word “member” where first occurring in that paragraph and inserting in its stead the word “Member”.
 18. Alter sub Rule (3) paragraph (a) of Rule 94 by deleting the word “members” in the first sentence and inserting in its stead the word “Members”.
 19. Alter sub Rule (3) paragraph (d) of Rule 94 by deleting the contents thereof and inserting the following in their stead:
“Pursuant to sub Rule (1) of this Rule the election of the Association Executive Officers shall be held during the National Council meeting occurring in an election year during the period of such a year prescribed by sub Rule (1) of Rule 76.
 20. Further alter sub Rule (3) of Rule 94 by deleting the contents of paragraph (j) and inserting the following in their stead:
“If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows.

- (A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.
- (B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.
- (C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw.”
21. Alter sub Rule (5) paragraph (b) of Rule 95 by deleting from that paragraph the word “Zone” and inserting the word “Branch” in its stead.
 22. Alter sub Rule (5) of Rule 95 by inserting after paragraph (b) and before paragraph (c) of that sub Rule new sub Rule (bA) in the following terms:
“(bA) Nominations may be withdrawn up to and including 5 working days after the time and date the Returning Officer has declared that nominations shall close. The withdrawal of such nomination shall be in the form determined by the Returning Officer and shall be signed by the nominee.”
 23. Alter sub Rule (5) paragraph (k) of Rule 95 by:
 - a. Inserting a full stop at the end of sub paragraph (c); and
 - b. Deleting sub paragraph (d).
 24. Alter sub Rule (2) paragraph (a) of Rule 96 by deleting the word “member” in the fifth line of that paragraph and inserting the word “Member” in its stead.
 25. Further alter Rule 96 by deleting sub Rules (3) and (4) in their entirety and renumbering sub Rule (5) as Sub rule (3).
 26. Alter sub Rule (2) paragraph (d) in Rule 97 by deleting from that paragraph the word “members” and inserting the word “Members” in its stead.
 27. Alter sub Rule (2) of Rule 101 by deleting the word “Notice” at the commencement of the sub Rule and inserting in its stead the following words:
“Notwithstanding the provisions of Rule 76 (3) and Rule 79 (5) of these Rules, notice”.
 28. Further alter sub Rule (2) of Rule 101 by deleting therefrom the words “one month” and inserting the words “fourteen days” in their stead.
 29. Alter sub Rule (3) of Rule 101 by deleting therefrom the word “President” in the first line and inserting the words “Secretary/Treasurer” in its stead.

30. Alter Rule 108 by deleting the words “the date of certification of this Rule” where each occurring in sub Rules (1) and (2) and inserting in their stead in each such sub Rule the words “24 May 2017”.

Resolutions were moved as a block as there was no request for individual voting.

Mover: Adrian Smith
Secunder: Alex Caruana

Resolutions: **Carried**

AGENDA ITEM 3 – Amendments to the AFPA Legal Assistance Scheme

Background and purpose of the changes to the Legal Assistance Scheme and associated resolution was provided by the AFPA General Manager and the AFPA Manager of Legal and Industrial.

Resolution:

This National Council pursuant to Rule 105 of the PFA AFPA Branch Rules endorses the Legal Assistance Scheme as tabled.

Mover: Adrian Smith
Secunder: Alex Caruana

Resolutions: **Carried**

Close of meeting

There being no further business Angela Smith, President, made closing remarks thanking National Council Delegates for their ongoing and important contribution and support for all Members.

The above is an accurate record of the meeting.

Signed:

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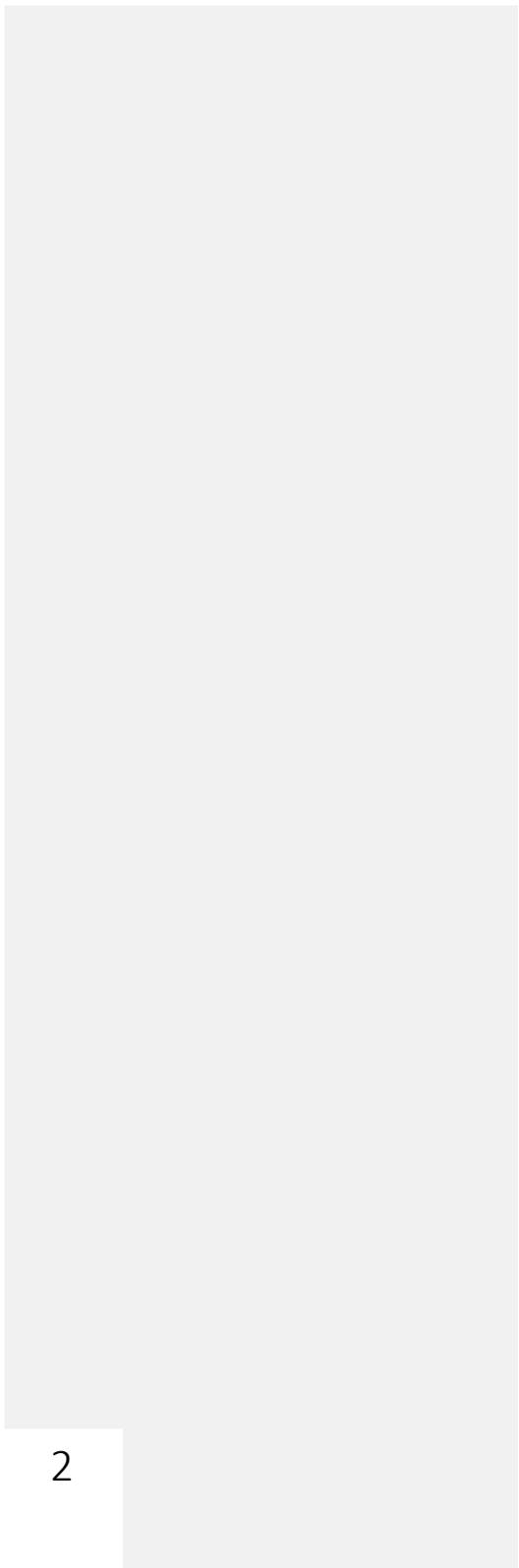
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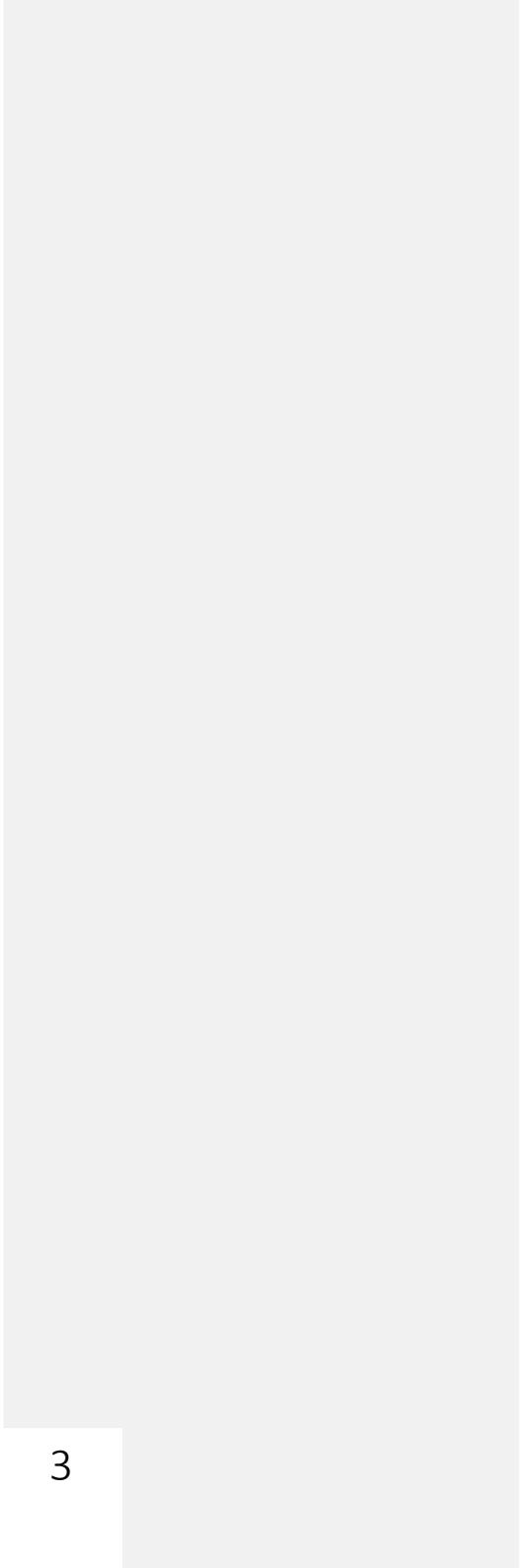
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AUSTRALIAN FEDERAL POLICE ASSOCIATION BRANCH RULES

CHAPTER 1 – FOUNDATIONAL AND PRELIMINARY MATTERS

53 – ESTABLISHMENT AND NAME

- 1) There shall be and is a branch of the Police Federation of Australia by the name “Australian Federal Police Association”.
- 2) These Rules are the Rules of the branch referred to in Sub-Rule (1) of this Rule.
- 3) The branch referred to in this Rule is referred to as “the Association” but that expression does not affect the fact that it is a branch of the Federation.
- 4) The Rules of the Association as in force prior to the date of certification of this Rule (“the certification date”) shall cease to apply from the certification date except insofar as they conferred rights or imposed obligations on members or other persons or entities prior to the certification date.

54 – LOCATION OF OFFICE

The office of the Association shall be located in the Australian Capital Territory, at such place or places as the Executive shall from time to time determine.

55 – OBJECTS

The objects of the Association shall be:

- 1) To uphold the rights and to foster, protect and improve the rights and interests of members industrially and otherwise;
- 2) To obtain and secure for its members, the best possible conditions and proper and sufficient remuneration, and to guard them against any hardship, oppression or injustice in connection with their employment;
- 3) To take all necessary steps for the protection and safety of the members in the course of their occupation;
- 4) To take the necessary steps and actions under any industrial or other legislation, 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 a member’s employment;

- 5) To promote industrial peace by all amicable means, such as conciliation, arbitration, or by the establishment of permanent boards, or to assist in the settlement of disputes or grievances by just and equitable methods;
- 6) To foster co-operation and harmonious relations between its members and affiliates throughout Australia;
- 7) To form a Benevolent and Welfare Fund for the promotion of welfare and benevolent assistance for members;
- 8) To establish and maintain such publications as may be in the interest of the Association and/or its members;
- 9) To promote the interests and effective delivery of Federal and Australian Capital Territory Law Enforcement;
- 10) To protect our members from any malicious, capricious or malevolent behaviour directed against them within the context of their professional role;
- 11) To provide professional general association services to association members;
- 12) To provide legal and other assistance to financial members whenever and wherever considered necessary;
- 13) To raise funds by fees, contributions, levies and other forms of income and investment for the purposes of advancing the best interests of the members;
- 14) To assist members financially or by other lawful means and/or to co-operate with any other organisation or association;
- 15) To purchase, take on lease, hold, sell, lease, mortgage, exchange and otherwise own, possess and deal with any real or personal property and in particular any land, buildings or easements for any purposes connected with the conduct of the Association;
- 16) To borrow or raise or secure the payment of money in such a manner as the Association may think fit, to secure the same, or the repayment or performance of any debt liability, contract, guarantee or other engagement incurred, or to be entered into by the Association in any way and to redeem or pay off such securities;
- 17) 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 Association;
- 18) To do all such things as the Association may from time to time deem incidental or conducive to the attainment of the above objects or any of them but at all times recognising that the Association may be constrained to pursue only some of these objects to the exclusion of others from time to time or pursue some objects with differing priorities.

56 – STRUCTURE

- 1) The Association consists of the members of it from time to time.
- 2) Each member shall be a member of a Zone.
- 3) Subject to the members convened in general meeting, the supreme governing body of the Association in respect of matters specifically assigned to it by these Rules shall be the National Council;
- 4) The Committee of Management of the Association is the Executive, which shall have the responsibility of managing and controlling the affairs of the Association subject to the direction of members in general meeting or by plebiscite, or direction by the National Council on matters within its authority.

57 – DEFINITIONS AND INTERPRETATION

- 1) In these Rules, the following words or expressions shall have the following meaning, unless the contrary intention appears.
 - a) “AFP” shall mean the Australian Federal Police;
 - b) “Association” or “the Association” means the Australian Federal Police Association, a branch of the Federation;
 - c) “Association Executive Officers” shall mean the officers of the Association identified in Rule 72(1);
 - d) “Branch” or “the Branch” means the Association;
 - e) “Casual vacancy” shall mean a vacancy occurring in an office after it has been filled and before the expiry of the term of that office;
 - f) “Convenor” means the Convenor of a Zone (formerly titled “Zone Co-Ordinator”);
 - g) “Executive” shall mean the Executive Committee of the Association constituted under these Rules;
 - h) “Federation” or “the Federation” means the Police Federation of Australia;
 - i) “Federation Rules” means the registered Rules of the Federation as they provide from time to time;
 - j) “Financial Reports” means the Auditor’s Report, General Purpose Financial Report and Operating Report in respect of any financial year of the Association;

- k) "FWC" means the Fair Work Commission by that name or any other name, or any successor thereto;
 - l) "Legal assistance" shall mean:
 - (i) the provision of legal advice and representation of a member by a legally qualified employee of the Association, at no cost to that member apart from their fees; and/or
 - (ii) the provision of funding for or toward the legal costs (including expenses and disbursements) of a member by one or more legal practitioners engaged to provide legal services to that member.
 - m) "Members' matter" shall mean any matter falling within the responsibility of the National Council other than the election or appointment of Association Executive Officers or Workplace Delegates, the removal of any Association Officer or Workplace Delegate from office and the alteration of the Rules of the Association;
 - n) "National Council" means the National Council of the Association;
 - o) "Office" shall bear the meaning assigned to it by the RO Act;
 - p) "Officer" shall mean the holder of an office, with the exception of a Returning Officer;
 - q) "Person" shall mean a natural person, a partnership or a corporation, as the case may require;
 - r) "Returning Officer" means the person holding or exercising the duties of the position referred to in Rule 94(6) or, where applicable, a member of the staff of the Australian Electoral Commission;
 - s) "Special Resolution" shall mean a resolution supported by not less than seventy-five percent (75%) of the persons entitled to vote on that resolution;
 - t) "the Rules" or "these Rules" shall mean the registered Rules of the Association as they provide from time to time;
 - u) "RO Act" or "the RO Act" shall mean the Fair Work (Registered Organisations) Act 2009 (Cth);
 - v) "Workplace Delegate" means a workplace delegate for a Zone;
 - w) "Zone" means a zone of the Association constituted by the Executive pursuant to Rule 85.
- 2) In these Rules, unless the contrary intention appears:
- a) The singular shall include the plural, and vice versa;

- b) A reference to one gender shall include a reference to all other genders;
 - c) Headings are for convenience and do not affect meaning;
 - d) A reference to a communication “in writing” or “written” includes email or any other written form of electronic communication;
 - e) Any schedule to these Rules shall form part of these Rules;
 - f) The word “shall” is a word meaning mandatory requirement;
 - g) A reference to a statute shall include any amendments to that statute and any statutory instruments made pursuant to that statute, and shall also include any successors to such statute, whether in whole or in part.
- 3) A reference in the Federation Rules to “Zone Secretary” of the Association shall be deemed to be a reference to the Secretary/Treasurer of the Association.

58 – BRANCH AUTONOMY

Notwithstanding any other provision of these Rules, the Association shall be completely and absolutely autonomous in matters affecting members of the Association only or its real and personal property and funds and shall be responsible for its own government and administration. It shall possess full and adequate powers to conduct its own affairs and to seek its objectives under the Rules. The control of the Association shall reside exclusively in the members of the Association. This Rule can never be altered except by a ballot of all financial members of Association conducted under Rule 71 of these Rules.

CHAPTER 2 – MEMBERSHIP

59 – ELIGIBILITY FOR MEMBERSHIP

See Rule 3 of the Federation Rules.

60 – ADMISSION TO MEMBERSHIP

Without limiting the effect of the Federation Rules in relation to admission to membership of it, a person who is eligible to be a member of the Federation pursuant to Rule 3(i) of the Federation Rules, and who otherwise complies with the Federation Rules and these Rules, is entitled and shall, on application, be admitted to membership of the Association.

61 – SUBSCRIPTIONS

- 1) Until otherwise determined by the Executive, the subscription for membership of the Association shall be calculated as follows:

- a) In the case of Executive employees, 1.25% of the Executive Level minimum salary prescribed by the Executive Level Enterprise Agreement between the Association and the AFP from time to time;
 - b) In the case of all other employees (whether sworn or unsworn), 1.25% of the base salary for the employee concerned (that is, without any composite allowance) prescribed by the Enterprise Agreement between the Association and the AFP from time to time.
- 2) Subscriptions shall be due on the 1st July and shall be payable not later than the 30th September in the same year, provided that in the case of a member joining the Association after the 1st July in any financial year the subscriptions of such member for that year:
- a) Shall be a pro rata amount calculated in accordance with the remaining number of complete months in that financial year; and
 - b) Shall be payable by that member not later than three months after the date of acceptance of their membership.
- 3) Notwithstanding anything contained in these Rules:
- a) The Executive may make arrangements with any employer whereby with the authority of any member the subscriptions payable by that member to the Association are to be deducted by the employer from the salary or salaries of the member on a regular basis and paid to the Association;
 - b) A member who has authorised such deduction of their subscription to the association from their salary shall, subject to the provisions of paragraph (c) of this Sub Rule, be deemed a financial member of the Association so long as such authority remains in force and provided that such member owes no arrears of subscriptions, fees or levies;
 - c) Where an arrangement referred to in this Sub Rule is terminated by the employer, the Secretary/Treasurer or the Zone Convenor shall 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 days from the date of such written notice, pay to the Association 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 subscription payable by that member for that year less such amount or amounts as has or have been deducted by the employer from that member's salary in respect of such annual subscription) and thereafter shall be liable to pay subscriptions in accordance with this Rule;
 - d) The Secretary/Treasurer may make arrangements to provide for any Association members who choose to, to pay their subscriptions to the Association by means of automatic electronic funds transfer via a financial institution.
- 4) All subscriptions and fees payable by members of the Association shall be paid to and collected by the Secretary/Treasurer or their duly appointed agent.
- 5) Where the Association becomes aware that payments required to be made by a member to the Association pursuant to any arrangement made under this Rule have ceased without notice to the

Association, the Association shall within seven (7) days of becoming aware of such cessation notify the member and give them a reasonable opportunity, being not less than fourteen (14) days, to rectify any deficiency and make good any arrears.

- 6) The Executive may, upon receipt of a written application by a member:
 - a) Permit the member to pay their subscription by instalments, and/or;
 - b) Exempt such member from the payment either wholly or in part of any subscriptions, fees or levies payable by such member where the Executive believes that that member's peculiar circumstances warrant such action by it.
- 7) Where the Executive receives such an application from a member the Executive shall, before deciding on the application, advise the member in writing of the consequences of such an application on that member's rights as a member, as prescribed by Rule 63 (3), and give the member the opportunity to withdraw the application before it is decided upon by the Executive.

62 – ASSOCIATION LEVIES

Levies shall not be imposed upon members except by a decision of the members in general meeting.

63 – UNFINANCIAL MEMBERS

- 1) Subject to Rule 61(3) and Sub Rule (3) of this Rule, a member owing subscriptions, fees or levies for a period of three months after they first become due shall be deemed to be unfinancial.
- 2) In addition to the provisions of Rule 10 of the Federation Rules, an unfinancial member shall not be entitled to attend or speak or vote at any meeting of the Association.
- 3) Any member exempted pursuant to Rule 61(5) of these Rules from payment either in whole or in part of any subscription, 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 or participate in any ballot or election in any Zone.
- 4) Without limiting the foregoing provisions of this Rule, and subject to those provisions, a member who is unfinancial shall not be entitled to any of the benefits of membership, or services of the Association during the period of unfinanciality, unless otherwise determined by the Executive.

64 - ALLOCATION AND TRANSFER OF MEMBERS

- 1) An Association member shall be attached to a Zone, the composition, constitution and boundaries of which are to be determined from time to time by the Executive, in accordance with these Rules, in a manner determined from time to time by the Executive.
- 2) All members must be attached to the Zone that they could most conveniently belong to ensure fair and equal representation. Where possible a member will first be attached to a Zone that best

represents their operational/functional role within the workforce, or geographical location. The Secretary/Treasurer shall allocate all members in accordance with Executive resolutions as adopted from time to time in accordance with these Rules.

- 3) A member, once attached to a Zone, must remain a voting member of that Zone. A member may be transferred to another Zone only in accordance with Executive resolutions.
- 4) The Executive must regularly review the constitution, membership and boundaries of all Zones to ensure fair and equal geographical, skills and role-based representation. Should it be necessary the Executive will from time to time establish Zones to ensure maximum and equal representation of all members.

NB: See also Rule 85 (4) in connection with elections of Workplace Delegates.

65 - TERMINATION OF MEMBERSHIP

- 1) In addition to the provisions of Rule 11 of the Federation Rules:
 - a) A member may resign from membership by notice in writing addressed and delivered to the Secretary/Treasurer or the office of the Association;
 - b) A notice delivered in accordance with Rule 65(1) shall be taken to have been received by the Association when it was delivered;
 - c) A Zone Convenor in receipt of a notice of resignation from a member shall forward that notice to the Secretary/Treasurer forthwith.
- 2) Notwithstanding any other provisions of these Rules, if a member has failed to pay the subscriptions required by these Rules to be paid by them to the Association for a continuous period of 24 months from the date such amount becomes due for payment, then the Association shall as soon as possible after the expiry of that 24 month period, and in any event within a further 12 months of that latter date, remove the name of that person from the register of the Association's members. That person shall cease to be a member of the Association on the date that their name is removed pursuant to this sub Rule.

66 - READMISSION TO MEMBERSHIP

Subject to the provisions of the RO Act, the readmission of a person to membership who has resigned from or been expelled from the Association shall be conditional on the payment of any moneys owing by such persons to the Association in respect of their earlier membership and subject to the approval of the application by the Executive, provided that the Executive may in its discretion resolve to wholly or partially waive any such outstanding monies.

67 - RECOVERY OF SUBSCRIPTIONS ETC FROM ANY MEMBER

See Rule 10(e) of the Federation Rules.

68 - MISCONDUCT OF MEMBERS

- 1) Any financial member of the Association may report another member in writing, in respect of any of the following matters:
 - a) Knowingly refusing to obey any of the Rules of the Federation or the Association;
 - b) Refusing to abide by a resolution carried at any meeting of the Association;
 - c) Defrauding or attempting to defraud the funds of the Association;
 - d) Making a false and malicious report against another member;
 - e) Violating or attempting to violate the terms of any industrial award or agreement;
 - f) Entering or attempting to enter into any agreement with any employer contrary to the provisions of any award or agreement secured by the Association and applicable to them;
 - g) Obstructing the National Council or other lawful committee or body of the Association in any way in the performance of any of its functions;
 - h) Obstructing any officer of the Association in the course of their duties;
 - i) wrongfully holding themselves out as occupying any office or position in the Association in any capacity (to which charge it shall be a defence that the member believed bona fide and on reasonable grounds that the member was entitled to so act);
 - j) Behaving in a disorderly manner at any meeting held under these Rules or in the office of the Association;
 - k) Aiding or encouraging any other member or members in any offence under this Rule.
- 2) Any report shall be made in writing to the Secretary/Treasurer and shall be accompanied by a deposit equivalent to one months' subscription. The Secretary/Treasurer shall summon the member reported before a meeting of the Executive, or require the member reported to participate in a meeting of the Executive by means of a telephone conference. Such summons shall be in writing and shall set out the time and place of the meeting or the time of the telephone conference (as the case may be), the name of the person making the report and the substance of the report. The person reported shall be given such notice of the meeting or telephone conference as may be reasonable, having regard to all the circumstances and if required to attend at a place more than 80 kilometres from their address as shown in the books of the Association shall be given their return fare. The member shall, on request, be supplied with such further particulars as may be necessary to indicate the precise matters with which the member is reported.
- 3) The Executive shall have power to hear and determine reports under this Rule, subject to an appeal to National Council being open to the member reported.

- 4) At the appointed time and place (or any time and place to which the meeting is adjourned or postponed and of which the person reported is notified) the report may be investigated, whether or not the person reported is present, unless a satisfactory explanation of their absence has been received.
- 5) If the member reported attends they shall be informed of the substance and source of any information adverse to them on which the Executive relies. The member shall be given a reasonable opportunity to defend themselves and may, if they wish, tender written submissions.
- 6) If the Executive finds the member proved guilty it may do one or more of the following, keeping in mind the seriousness of the offence:
 - a) Impose no penalty;
 - b) Suspend the member from membership or deprive them of any right or benefits of membership for any specified period or until the happening of any specified event or until the performance of any specified act. Suspension from membership shall deprive a member of the benefits of membership but shall not relieve them of the obligations of membership and shall not exceed six months for any offence. If the specified event had not occurred or the specified act had not been done at the expiration of six months from the date of suspension, the suspension shall then lapse;
 - c) Expel them from the Association.
- 7) Upon completion of any hearing, the deposit shall be refunded to the member making report, provided that if upon investigation the report is found to be frivolous by unanimous decision of the Executive, the deposit shall be forfeited by the member who made the report and shall be paid into the funds of the Association.
- 8) An appeal shall lie at the instance of the member reported from any decision under this Rule from the Executive to the National Council. Notice of appeal shall be given in writing within two weeks of any decision being communicated to the member and shall set forth in full all matters that the appellant desires to be considered. The appeal may be dealt with in meeting or by postal vote. The notice of appeal shall be given to the Secretary/Treasurer.
- 9) No member against whom a report has been made pursuant to this Rule shall be entitled to commence or prosecute any action or legal proceedings for defamation against the person making the report or any person who gave evidence (either orally or in writing) or any person who exercised any power or duty in respect to the hearing of the report, it being a condition of membership of the Association that all complaints, notices, letters, evidence or other matter arising under or incidental to any report and the hearing and determination thereof and all proceedings and utterances at the hearing and determination thereof should be privileged and protected accordingly and should any action or legal proceedings be taken as aforesaid, this Rule shall be pleaded as an absolute bar thereto, provided that this Rule shall not protect any person against any legal liability for making, with express malice, a statement false to the knowledge of such person.

CHAPTER 3 – GOVERNANCE

69 – OVERVIEW

The governance structure of the Association consists of:

- 1) General meetings of member and plebiscites;
- 2) National Council;
- 3) Executive; and
- 4) Zone Committees.

The following seven (7) Divisions of this Chapter deal with each of these various parts of the structure and related matters.

Division 1 – GENERAL MEETINGS AND PLEBISCITES

70 – ASSOCIATION GENERAL MEETINGS

- 1) A General Meeting of the Association may be convened in accordance with the requirements of this Rule to deal with either a Member's matter or for the specific purpose of considering the Financial Reports.
- 2) A General Meeting of the Association may be called at any time on a resolution of the National Council being carried that such a meeting be held.
- 3) A General Meeting of the Association shall be called by the Secretary/Treasurer upon receipt by them of:
 - a) a direction to do so from the National Council; or
 - b) a petition signed:
 - i. by not less than five per cent of the financial members of the Association if the meeting is being convened to deal with a Members' matter; or
 - ii. by not less than five per cent of the members of the Association if the meeting is being convened for the purpose of considering the Financial Reports.

Such petition 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 their signature.

- 4) Not less than seven (7) days' notice of the time, place and agenda of a General Meeting shall be given, provided that when a matter requires immediate attention such lesser notice of a General

Meeting as may be determined by the Executive may be given. Such notice to members shall be in writing and posted or delivered to each member's place or employment, or by email communication to a member's email address provided to the Association, or by notice published on the Association website.

- 5) A General Meeting shall not be competent to deal with any Members' Matter other than the reason set out by the petition of members or the notification of such meeting as has been given by the Secretary/Treasurer.
- 6) A General Meeting shall be held at such time and place as shall be determined by the Executive and shall be held not later than twenty-eight (28) days following the receipt of the petition by the Secretary/Treasurer.
- 7) A quorum for any General Meeting shall be at least five (5) percent of the financial members of the Association.
- 8) If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of a General Meeting, the meeting shall lapse but without prejudice to the calling of another General Meeting in accordance with the requirements of this Rule to deal with the same business, provided that no such further meeting may be convened without the approval of the Executive given by way of a special resolution.
- 9) Voting at all general meetings shall be by show of hands or by such other method as the meeting may decide. The Chair shall have a deliberative vote only and in the event of a tie the question shall lapse. Proxy voting shall not be permitted.
- 10) Notwithstanding any other provisions of these Rules a General Meeting may be conducted either:
 - a) by way of one meeting of the members at one location, or by way of a series of meetings at different locations, with the General Meeting being taken to have occurred, and the requirements for a quorum being determined, at the time of the last of the meetings in the series; or
 - b) by way of one meeting of the members where electronic facilities allow a reasonable opportunity for members present at the meeting to see and hear each other, including in relation to their voting intentions, although those members are at different locations during the meeting.

71 – PLEBISCITE OF ASSOCIATION MEMBERS

- 1) A plebiscite of all financial members of the Association in relation to any Members' Matter:
 - a) May be held at the discretion of the National Council or the Executive; and
 - b) Shall be held if required by a requisition in writing and signed by not less than five (5) per cent of the financial members of the Association.

- 2) The Executive shall approve for issue with the ballot paper a fair summary of the arguments for and against the question to be voted upon in the plebiscite and, for this purpose, the Secretary/Treasurer, after consultation with the parties in contention, shall submit to the Executive a draft of such summary.
- 3) Any such plebiscite shall be conducted by secret postal ballot and shall be under the absolute control and direction of the Returning Officer appointed pursuant to Rule 94(6) who shall:
 - a) Prepare ballot papers which shall contain the question to be voted on;
 - b) Cause to be posted to each member entitled to vote in the plebiscite a ballot paper, initialled by the Returning Officer, together with a reply paid envelope addressed to the Returning Officer, the summary approved by the Association Executive and such directions and instructions as the Returning Officer may deem necessary for the conduct of the plebiscite;
 - c) Determine the time and date for the closure of the ballot, having consideration for the convenience of the voters;
 - d) Take such steps as are necessary to ensure that a result is correctly ascertained;
 - e) Report the result of the plebiscite to the first meeting of the Executive held after the conclusion of the counting of the votes cast.
- 4) A simple majority decision of the members voting shall be final and shall prevail over any contrary decision of the National Council or the Executive.

Division 2 – ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES

72 - OFFICERS OF THE ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES/DELEGATES TO NATIONAL COUNCIL

- 1) The Association Executive Officers shall be:
 - a) the President;
 - b) the Vice President;
 - c) the Secretary/Treasurer;
 - d) Six Executive Members.
- 2) In addition to the Association Executive Officers there shall be Workplace Delegates for each Zone whose duties and responsibilities shall be:

- a) to represent the members of the Association in their workplace to the best of their ability and to keep their Zone informed on all matters of importance occurring within their workplace;
 - b) to keep the members in the workplace informed about the business of the Association;
 - c) to endeavour to resolve all issues referred to them by members in their workplace by discussion with representatives of the AFP relevant to their workplace and in the event that an issue cannot be resolved by discussion, the Workplace Delegate shall refer the matter to the Zone Convenor, together with such other information as is necessary;
 - d) to diligently attend and participate in meetings of the National Council; and
 - e) to perform such other duties and responsibilities as are imposed on them by these Rules.
- 3) Workplace Delegates shall be elected to each Zone in accordance with the following formula in all such elections conducted after the certification of this Rule:
- (i) 1 to 100 members: one delegate;
 - (ii) 101 to 200 members: two delegates;
 - (iii) 201 to 300 members: three delegates;
 - (iv) 301 to 400 members: four delegates;
 - (v) 401 to 500 members: five delegates;
 - (vi) 501 to 600 members: six delegates;
 - (vii) 601 to 700 members: seven delegates;
 - (viii) 701 members and above eight delegates

PROVIDED THAT the above formula shall be reviewed by the Executive and the National Council every two (2) years following the certification of this Rule to determine whether any alteration is then required to continue to ensure fair representation of each Zone.

- 4) The term of office of a Workplace Delegate elected pursuant to these Rules shall be two (2) years from the date of such election, provided that they shall continue in that office until their successor takes up office. Any such person elected to such office is entitled to seek re-election for that office, if otherwise eligible in accordance with these Rules.
- 5) Any financial member of the Association is entitled to nominate and vote for the office of Workplace Delegate in the Zone to which they are allocated as at the date of calling of nominations for such office pursuant to Rule 95(5)(a).
- 6) Elections for Workplace Delegates will be conducted in each Zone in accordance with Rule 95(5).

- 7) Any casual vacancy for the office of Workplace delegate shall be filled in accordance with Rule 95 (7).
- 8) Assistant Workplace Delegates may be co-opted by the Zone Convenor as they see fit in order to enable the Zone Committee and its members to carry out their duties under these Rules. The names of such Assistant Workplace Delegates shall be forwarded to the Secretary/Treasurer and one such Assistant Workplace Delegate shall act on behalf of any Workplace Delegate when they are on leave or not available.
- 9) Zone Convenors, Workplace Delegates, or Zones, except as provided in these Rules, shall not commit the Association to a course of action, either formally or informally, and shall not incur any expense or liability on behalf of the Association unless expressly authorised by the Executive.
- 10) For the purposes of this Rule a Zone Convenor shall be deemed to be a Workplace Delegate where there is no such position elected within the Zone in accordance with Sub Rule (3) of this Rule.
- 11) **All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary except:**
 - a) **for the office of President as prescribed by Rule 82; and**
 - b) **any office to which Rule 83 applies where the Executive resolves that such office be a paid position, and subject to any conditions contained in such resolution.** ~~All of the offices referred to in this Rule (including that of Workplace Delegate) shall be honorary unless the Executive resolves that the offices of President and/or Vice President shall be paid positions.~~

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73 – DUTIES OF OFFICERS (INCLUDING WORKPLACE DELEGATES)

- 1) All Association Executive Officers and Workplace Delegates are required to give due and diligent attention to their duties to the Association, whether prescribed by these Rules, the RO Act or any other law.
- 2) Without limiting the foregoing, an Association Executive Officer or Workplace Delegate is under a duty to the Association to comply with the provisions of the Association’s “Code of Conduct” as such Code provides from time to time.
- 3) Without limiting the effect of the preceding provisions of this Rule, Association Executive Officers shall also comply with financial accountability obligations prescribed by Part B1 of the Federation Rules.

Division 3 – NATIONAL COUNCIL

74 – CONSTITUTION OF NATIONAL COUNCIL

- 1) The National Council shall consist of:
 - a) The Association Executive Officers ~~of the Association~~; and

- b) Subject to Rules 72(3) and 74(2) Workplace Delegates from each Zone, elected by and from the financial members of each Zone;
 - c) Each Zone Convenor as elected in accordance with these Rules, by and from financial members in each Zone.
- 2) The Zone Convenor shall, ex officio, be the first of the Zone's delegates to the National Council and shall be counted in the number of delegates eligible to be elected.
 - 3) Where a Zone Convenor or Workplace Delegate of a Zone becomes an Association Executive Officer ~~of the Association~~, they shall cease to be and act as a delegate of that Zone and that Zone shall be entitled to elect or appoint a delegate in their place in accordance with Rule 95(7) of these Rules.

75 – POWERS AND DUTIES OF NATIONAL COUNCIL

The National Council shall, subject to these Rules and the control by the members as hereinbefore mentioned, be the supreme governing body of the Association in relation to the following matters, and those matters only:

- 1) To determine and direct the general policy of the Association in all matters affecting the National Council;
- 2) To make, add to, amend, rescind and/or otherwise alter these Rules;
- 3) To approve guidelines for the granting of legal assistance to members pursuant to Rule 105;
- 4) To resolve that the Association affiliate with any other organisation or body that has industrial or political objects consistent with those of the Association;
- 5) To elect, in an election year, by and from its number, the Association Executive Officers ~~of the Association~~ as identified in Rule 72(1);
- 6) To remove any Officer of the Association from office as specified in Rule 92;
- 7) To confer Life Membership on any person in recognition of long or exemplary service rendered to the Association;
- 8) To nominate for award or national recognition any person in recognition of exemplary service rendered to the Association and/or law enforcement profession and/or welfare of law enforcement officers and victims of crime and/or the community; and
- 9) To exercise any other power specifically conferred on it by these Rules.

76 – MEETINGS OF NATIONAL COUNCIL

- 1) The National Council shall meet biennially in the months of March or April or at such other time as is determined by the Executive.

- 2) Special meetings of the National Council shall be held by resolution of the National Council or Executive.
- 3) The Secretary/Treasurer shall give each member of the National Council at least thirty (30) days' notice of the biennial meeting of National Council and seven (7) days' notice of any special meeting thereof.
- 4) The quorum for meetings of the National Council shall be one half of the persons entitled to attend and vote. If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of the meeting such meeting shall lapse but without prejudice to another such meeting being called for the same purpose as such meeting was called, at such other time and place as may be thought fit, upon seven (7) days' notice to all members by the Secretary/Treasurer provided that no such meeting may be convened without the approval of the Executive given by way of a special resolution.
- 5) Voting at all meetings of the National Council shall be by show of hands unless the National Council decides on another method. At all such meetings the Chair shall have a deliberative vote only and in the event of a tie the question shall lapse. Proxy voting shall not be permitted.

77 – AGENDA FOR NATIONAL COUNCIL

- 1) Not less than sixty (60) days prior to a biennial meeting of the National Council, the Secretary/Treasurer shall invite each member of the National Council to submit items for the agenda, such items to be forwarded to the Secretary/Treasurer not more than thirty (30) days after such invitation.
- 2) The Secretary/Treasurer shall, upon receipt of such items, prepare and forward to each member of the National Council a copy of the agenda paper at least fourteen (14) days prior to the biennial meeting of National Council.
- 3) The Executive shall have power to submit items for consideration by National Council and such items shall be included on the agenda paper referred to in Sub Rule (2) of this Rule.
- 4) The agenda paper for a special meeting of National Council shall be forwarded with the notice of such meeting.
- 5) National Council may, at any of its meetings, deal with any matter, pursuant to Rule 75, whether or not that matter has appeared or appears on the agenda paper, provided that a majority of the members of National Council present and voting, vote in favour of the particular item being considered.

78 – FARES AND EXPENSES

The Executive shall determine from time to time the fares and expenses to be paid to or on behalf of members of the National Council and when attending meetings of the same or when attending to the business of the Association. Such fares and expenses shall be paid out of the funds of the Association.

79 – MATTERS REQUIRING DECISION BETWEEN NATIONAL COUNCIL MEETINGS

- 1) The Executive may determine that any matter requires a decision of the National Council between biennial meetings of the National Council and that such matter be submitted to the National Council for decision in accordance with either of the procedures prescribed in Sub Rules (2) and (3) of this Rule.
- 2)
 - a) Where it is determined that the matter be submitted to the National Council for decision by ballot of the members of the National Council, such matter may be forwarded by post, email or facsimile to each of the members of the National Council in such form as is determined by the Executive.
 - b) The members of the National Council shall record their vote on the matter so submitted by post, email or facsimile addressed to the Secretary/Treasurer and the decision of the majority shall be binding as if such decision were obtained by vote at a regularly constituted meeting of the National Council.
 - c) All votes or their confirmation shall be signed by members of National Council recording the same.
- 3)
 - a) Where it is determined that the matter be submitted to the National Council for decision by a meeting of members of the National Council conducted by such telephonic or electronic means as may from time to time be available, the Secretary/Treasurer shall as soon as is practicable arrange such a meeting.
 - b) The members of the National Council shall participate in such a meeting and the decision of the majority shall be binding as if such decision were obtained at a regularly constituted meeting of the National Council.
- 4) If:
 - a) In the course of a ballot conducted pursuant to Sub Rule (2) of this Rule, a majority of members of the National Council notify the Secretary/Treasurer; or
 - b) In the course of a meeting conducted pursuant to Sub Rule (3) of this Rule, a majority of members of the National Council resolve, that the matter as submitted to them is of such importance as to require a special meeting of the National Council then such special meeting of the National Council shall be convened forthwith by the Secretary/Treasurer to meet at such time and place as the Executive shall determine.
- 5) At any special National Council meeting held pursuant to Sub Rule (4)(b) of this Rule the Executive may submit for consideration such other matters as it should determine, provided that written notice of not less than seven (7) days is given to all members of the National Council.

Division 4 – NATIONAL EXECUTIVE

80 - EXECUTIVE – COMPOSITION, POWERS AND DUTIES

- 1) The Executive shall consist of the Association Executive Officers ~~of the Association~~ and shall be the committee of management of the Association for the purposes of the RO Act. Subject to these Rules and the decisions of the National Council and the members in general meeting or by plebiscite, the Executive shall have full power to conduct and manage the affairs of the Association.
- 2) Without limiting the effect of Sub Rule (1), the Executive shall have the following powers:
 - a) Such powers as are specifically conferred on the Executive by any other provisions of these Rules;
 - b) The power to appoint an Association auditor, and to fix their fees or remuneration;
 - c) To remove an association auditor in accordance with Rule 100;
 - d) To fix the remuneration and benefits of Association Executive Officers;
 - e) To fix the remuneration of the Association Returning Officer;
 - f) Subject to the requirements of Rule 107 in the case of the General Manager, fix the terms and conditions of employment of employees of the Association;
 - g) Delegate the powers and responsibilities of the Secretary/Treasurer to the General Manager;
 - h) To appoint any person to represent the Association before any court, commission, board, tribunal or other authority;
 - i) To establish any committee or subcommittees as it may determine provided that any such committee or subcommittee shall be advisory only;
 - j) To enter the association into an affiliation with any other organisation or body other than those with industrial or political objectives;
 - k) Subject to the RO Act, to interpret these Rules;
 - l) To direct the investment of the funds of the Association;
 - m) To dispose of or transfer any of the funds of the Association or any securities in which the funds of the Association have been invested;
 - n) To establish such companies, agencies and bodies as are necessary to further the interests of the members;
 - o) To take such action or exercise such powers as are incidental to those specifically identified in these Rules.

81 – MEETINGS OF EXECUTIVE

- 1) The Executive shall meet at such times and in such places as it shall determine by resolution and may meet as many times in a calendar year as it should so determine, provided that it shall meet no less than five (5) times in any one calendar year.
- 2) A meeting of the Executive may also be convened at the written request of the President or at least three (3) Members of the Executive, submitted to the Secretary/Treasurer. To avoid doubt, there is no limit on the number of such meetings that may be conducted in any one calendar year.
- 3) The Secretary/Treasurer shall give written notice of each meeting of the Executive as follows:
 - a) In the case of a meeting convened pursuant to Sub Rule (1) of this Rule, at least seven (7) days' notice of the time of the meeting; and
 - b) In the case of a meeting convened pursuant to Sub Rule (2) of this Rule, not less than forty-eight (48) hours' notice of the meeting, where practicable;

provided that where the Executive resolves to schedule more than one meeting pursuant to Sub Rule (1), the Secretary/Treasurer may notify the members of those dates by one communication listing all dates so fixed.

- 4) The quorum for meetings of the Executive shall be one half of the persons entitled to attend and vote. If no quorum be present at the expiration of thirty (30) minutes after the time stated for the commencement of the meeting such meeting shall lapse but without prejudice to another such meeting being called for the same purpose as such meeting was called, at such other time and place as may be though fit, upon seven (7) days' notice to all members by the Secretary/Treasurer.
- 5) Notwithstanding any other provision of these Rules, any meeting of the Executive may be conducted in person, by telephone or videoconference, or by a combination of these forms of meeting or communication. Where any such Meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:
 - (a) Any such meeting is otherwise convened and conducted in accordance with the requirements of the Rules, including (without limitation) the preceding provisions of this Sub Rule; and
 - (b) Each of the members participating in the meeting must be able to hear each of the other members present at the meeting.
- 6) Where in the opinion of the President a matter requires the consideration of the Executive before its next scheduled meeting, the Executive may be consulted in writing (including electronic means) by circular proposed resolution. Such a proposed resolution shall become a resolution of the Executive as at the date set for return of responses, provided that the proposed resolution is supported by at least fifty (50) percent of the total number of Executive ~~members~~ Members then holding office, plus one. A resolution passed by way of such circular resolution shall be reported to the next Executive meeting.

- 7) To avoid doubt, in this Rule, communication by way of email to a person at that person's email address notified to the Association shall be deemed sufficient to constitute written communication to that person.
- 8) It shall be the duty of each Association Executive Officer to attend every meeting of the Executive unless granted leave by the Executive.
- 9) At all meetings of the Executive voting shall be by show of hands unless the meeting decides on another method. The Chair shall have a deliberative vote only and in the case of a tie the question shall lapse. Proxy voting shall not be permitted.

82 – PRESIDENT

- 1) The President shall preside at all meetings of the National Council and the Executive and any meeting of the Association held by decision of the National Council. They shall preserve order so that the business may be conducted in due form and with propriety and upon the minutes being confirmed shall sign those minutes in the presence of the meeting.
- 2) The President shall have the authority to act for and on behalf of the Executive in any matter of such urgency that the Executive cannot reasonably be convened or consulted under these Rules but shall report the full circumstances of such action to the Executive at the first available opportunity.
- 3) In addition to the foregoing obligations, the President shall undertake full time the role of being principal spokesperson and public representative of the Association, with the principal place for the performance of those duties being at and from the location of the National Office as determined pursuant to Rule 54.
- 4) The Office of President shall be a full time paid position on terms and conditions prescribed by resolution of the National Executive from time to time.

83 – VICE-PRESIDENT AND EXECUTIVE MEMBERS

- 1) The Vice President shall assume the duties of the President in the absence of that Officer for any reason and shall otherwise perform such duties and functions as may from time be allocated to them by resolution of the Executive. ~~Provided that if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive members to act as Vice President until either that Officer or the President becomes available.~~ Provided that:

a) if both the President and the Vice President are not available for any reason, the Executive shall appoint one of the Executive Members to act as Vice President until either that Officer or the President becomes available; or

b) If the President is unavailable for any reason and the Vice President either advises the General Manager in writing that they are unwilling to assume the duties of President or fails to take up those duties within seven (7) days of the requirement to do so arising, the Executive

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may appoint another member of the Executive to act as President until the President becomes available.

- 2) Each Executive Member shall at all times assist the President in the execution of their duties and provide oversight, direction and assistance to Convenors and Workplace Delegates. The Executive will determine which Convenors and Workplace Delegates are to be allocated to each of the Executive Members for oversight, direction and assistance.

- 3) The Executive may resolve that any office to which this Rule relates shall be a paid position, provided that any such resolution must specify:

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- a) whether the position is full time or part time, and if the latter the hours and/or days of work;
- b) the duties of the paid position;
- c) the principal place at or from which the duties are to be performed;
- d) the duration of the paid position; and
- e) the terms and conditions for the position, including remuneration.

PROVIDED THAT:

- f) The principal place at or from which the duties are performed shall be the National office as determined pursuant to Rule 54, unless the Executive resolves otherwise; and
- g) Any such resolution may be altered or rescinded at any time by the Executive, on not less than thirty (30) days notice to any incumbent.

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84 – SECRETARY/TREASURER

- 1) The Secretary/Treasurer shall:
- a) Summon by notice in writing to each member thereof and attend, unless excused, all meetings of the National Council and the Executive and keep or cause to be kept correct minutes of the same, which minutes when confirmed are to be electronically stored in the Association's records;
 - b) Have the right to speak at any general or special meeting of any Association or Zone Committee, but not to vote unless they are a member of such Zone Committee;
 - c) Initiate or respond to all correspondence as appropriate to these Rules;
 - d) Keep or cause to be kept the records required to be kept by an organisation pursuant to the provisions of the RO Act;
 - e) Lodge and file with and furnish to the General Manager of the Fair Work Commission and the Registered Organisations Commissioner all such documents as are required to be lodged, filed or furnished under the RO Act at the prescribed times and in the prescribed manner;

- f) Keep an up to date register of members showing their names, their postal address and email address where notified, and their allocated Zone under the Rules and provide the Returning Officer with such assistance as is necessary to enable them to conduct any election;
 - g) Receive all monies on behalf of the Association and pay the same within seven days of receipt into such financial institution or institutions as the Executive may direct to the credit of the Association;
 - h) Issue or cause to be issued proper receipts for all moneys received by or on behalf of the Association;
 - i) Be responsible for but not hold in their name, the books, records, property and moneys of the Association and, within 48 hours of receiving a request from the Executive to do so, deliver to the Executive such books, records, property and moneys;
 - j) Submit their books, accounts and receipts annually or as often as may be required by the Executive or to the auditors and to give them such assistance as they may require in the audit;
 - k) Draw up a report and balance sheet each financial year and forward a copy of same to each member of the Executive within three months of the end of the financial year to which it relates;
 - l) Prepare and submit to each meeting of the Executive an up-to-date financial statement and, when called upon so to do by the President, or the Executive, produce all relevant books in support of the same;
 - m) Subject to Rule 98(2), submit to the Executive all accounts for payment with their recommendations and make all authorised payments from the funds of the Association, such payments to be approved by any two of the Association Executive Officers appointed by the Executive;
 - n) At the direction of the Executive, carry out other duties as required.
- 2) The Secretary/Treasurer may deputise a member of a recognised Institute of Accountants approved by the Executive to keep the books of the Association, in which event they shall remain responsible for the supervision of their preparation and their accuracy.
 - 3) The duties prescribed in this Rule are to be carried out under the direction and control of the Executive which may from time to time delegate some of those duties by resolution to other Association Executive Officers or to the General Manager pursuant to Rule 107.
 - 4) To avoid doubt, the Secretary /Treasurer may be assisted in the performance of any of their duties under the Rules by the General Manager or any other employees so authorised by resolution of the Executive.

DIVISION 5 – ZONE GOVERNANCE

85 – ZONES

- 1) ~~The Association may establish such Zones as the Executive may from time to time decide.~~ Subject to the provisions of this Division the Executive of the Association may from time to time establish Zones of the Association. The Executive shall ensure that each Zone is operationally viable and represents a geographical, operational or other community of interest. The Executive must ensure that no inherent or contrived bias shall prejudice the reasonable application of the principle 'one vote - one value' for members through the establishment of a Zone. To ensure ongoing viability of a Zone, the Executive may appoint as many Assistant Workplace Delegates to a Zone as are required to allow proper representation of the Zone members.
- 2) Where a new Zone is established the new positions of Zone Convenor and Workplace Delegates will be filled in accordance with Rule 95.
- 3) The Association may disband such Zones as the Executive may from time to time decide. Where an existing Zone is disbanded the existing positions of Zone Convenor and Workplace Delegates held within the Zone will cease to exist at the completion of their current term or upon vacation of the office before that time.
- 4) Notwithstanding any of the previous provisions of this Rule, the Executive may not establish a new Zone, or disband or alter the coverage of any existing Zone, any later than 31 March in any year in which a biennial election for Workplace delegates is due to be conducted pursuant to Rule 95.

86 – ZONE MANAGEMENT

The government, management and control of the affairs of each Zone shall, subject to these Rules and any direction of the Executive be vested in a Zone Committee constituted by the elected Workplace Delegates, any assistant workplace delegates appointed, and the Zone Convenor of that Zone.

87 - ZONE CONVENORS

The Zone Convenor shall, ex officio, be a member of all Committees and Sub-Committees of the Zone.

- 1) The Zone Convenor shall:
 - a) Preside at all meetings of the Zone's Committee and preserve order thereat so that business may be conducted in due form with propriety and in conformity with standing orders;
 - b) Sign all documents requiring their signature as official head of the Zone and shall sign all minutes of the Zone duly confirmed in the presence of the meeting confirming the same;
 - c) Call meetings of the Zone committee when necessary;

- d) Generally, ensure the well-being of the Zone and its members and the carrying out of the objects of the Association within the area administered by their Zone;

88 - ZONE COMMITTEE

A Zone Committee shall consist of the Zone Convenor, such Workplace Delegates in number as elected in accordance with Rule 72(3) and Rule 95 and any Assistant Workplace Delegates if appointed.

89 - POWERS AND DUTIES OF ZONE COMMITTEE

A Zone Committee shall, subject to these Rules and to the control of the Zone members as hereinafter mentioned, have power:

- 1) To take any action which in its opinion is in the interests of the Zone, provided that such action does not conflict with the policies of the Association or any decision or direction of the National Council or the Executive; and
- 2) To exercise any other powers conferred upon it by these Rules.

90 - MEETINGS OF ZONE COMMITTEE

A Zone Committee shall meet at such times as it may determine provided that the President or the Secretary/Treasurer may, by notice in writing either by post or electronic means, call a meeting of the Zone Committee and shall call such a meeting if requested to do so by not less than one-third of the members of such Committee. The Zone Convenor shall cause accurate minutes of all Zone meetings to be kept and maintained.

91 – GUARANTEE OF FAIR REPRESENTATION

The Executive, when establishing the composition of any Zone will ensure as far as practicable that all Association members shall receive fair representation of their professional and industrial interests on the National Council. The Executive shall ensure that Zone compositions will preclude any institutional gerrymander which defeats the representation of members' interest.

**Division 6 – ELECTION OF ASSOCIATION EXECUTIVE OFFICERS
AND WORKPLACE DELATES**

See Chapter 4

Division 7 – REMOVAL OF ASSOCIATION EXECUTIVE OFFICERS AND WORKPLACE DELEGATES

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92 – MISCONDUCT OF ASSOCIATION EXECUTIVE OFFICERS

- 1) An Association Executive Officer may be removed from their office if the National Council by majority resolution of members voting finds them guilty, in accordance with these Rules, of misappropriation of the funds of the Association, a substantial breach of the Rules of the Federation or the Association, gross misbehaviour or gross neglect of duty or finds that they have ceased, according to these Rules, to be eligible to hold their office.

[Note: See Rule 73(1) and Rule 81(8) – failure by an Association Executive Officer to attend three consecutive meetings of the Executive without leave may constitute a serious breach of the Rules or gross neglect of duty.]

- 2) Any member suspecting an officer to be liable to removal pursuant to Sub Rule (1) may report such officer under this Rule. Any report shall be in writing and shall be forwarded to the President or the Secretary/Treasurer, who shall notify the person reported of the details of the report.
- 3) The person reported shall be given not less than fourteen days' notice in writing of the time and place of the meeting at which the report is to be heard and determined and shall be entitled to attend such meetings and to be heard but not to vote thereat.
- 4) Notwithstanding the foregoing, the Executive by majority resolution may, in their discretion, suspend from office or Association membership a person reported under this Rule pending determination of the report but in no event shall a person remain suspended for a period exceeding twenty-eight (28) days.
- 5) A person shall be ineligible to hold office under this Rule if they cease to be a financial member of the Association.

93 - REMOVAL OF ZONE CONVENORS AND WORKPLACE DELEGATES

- 1) A Zone Convenor or Workplace Delegate may be removed from their office if the Executive by a majority resolution of members voting finds them guilty, in accordance with these Rules, of misappropriation of the funds of the Association, a substantial breach of the Rules of the Federation or the Association, gross misbehaviour or gross neglect of duty or finds that they have ceased, according to these Rules, to be eligible to hold their office.
- 2) Any member suspecting such an Officer to be liable to removal pursuant to Sub Rule (1) may report that officer under this Rule. Any report shall be in writing and shall be forwarded to the Secretary/Treasurer, who shall notify the person reported of the details of the report.
- 3) The person reported shall be given not less than fourteen (14) days' notice in writing of the time and place of the meeting at which the report is to be heard and determined and shall be entitled to attend such meeting and to be heard but not to vote thereat.

- 4) A member so removed by the Executive shall have the right of appeal to the National Council provided that the member gives to the Secretary/Treasurer notice of their intention to appeal within seven days of the member being notified in writing of their removal, but the giving of such notice shall not operate to stay the decision of the Executive.
- 5) Notwithstanding the foregoing, the Executive may, in its discretion, suspend from office a person reported under this Rule pending determination of the report but in no event shall a person remain suspended for a period exceeding twenty-eight (28) days.
- 6) A person shall be ineligible to hold office under this rule if they cease to be a financial member of the Association.

CHAPTER 4 – ELECTIONS

94 - ELECTION OF ASSOCIATION EXECUTIVE OFFICERS

- 1) Election and Tenure of Office
 - a) The President shall be elected by secret ballot by and from the National Council and shall take office from the declaration of their election ~~and or the conclusion of the National Council meeting at which they were elected whichever is the later. They~~ shall hold office for a period of four years or until a successor thereto has been elected and taken office. Such an election shall be conducted at every second biennial meeting of National Council, occurring thereafter.
 - b) ~~The Vice President shall be elected by secret ballot by and from the National Council at its first biennial meeting to be conducted after 23 December 2016. The person so elected shall take office from the declaration of their election and shall hold office for a period of four years or until a successor thereto has been elected and taken office. The Vice President, Secretary/Treasurer and the Six Executive members shall be elected by secret ballot by and from the National Council. The persons so elected shall take office from the declaration of their election or the conclusion of the National Council meeting at which they were elected, whichever is the later. Commencing from the elections to be conducted in 2021, they shall hold office for a period of four years or until a successor thereto has been elected and taken office. Such an election shall be conducted at every second biennial meeting of the National Council, occurring thereafter.~~
 - c) ~~The Secretary/Treasurer and the six Executive members other than the President and the Vice President shall be elected by secret ballot by and from the National Council and shall take office from the declaration of their election and shall hold office for a period of two years or until successors to them have been elected and taken office. Such an election shall be conducted at every biennial meeting of National Council, occurring thereafter.~~
- 2) Qualifications for Office

a) A nominee for the office of President, Vice President, Secretary/Treasurer or Executive ~~member~~ Member shall be a financial member of the Association at the date of their nomination and:

- (i) Shall be a member of the National Council; and
- (ii) Nominated by two members of the National Council.

3) Manner of Election

a) The Returning Officer shall call for nominations for the office of President, Vice President, Secretary/Treasurer and Executive ~~members~~ Members sixty (60) days prior to the meeting of National Council, in an election year, provided that nominations for the said offices shall close seven (7) days prior to such meeting. The roll of voters for these elections shall close no later than seven (7) days prior to the date upon which nominations are to be called.

b) Nominations shall be in writing, signed by the nominee and two (2) nominators (who shall be members of the National Council) and shall be delivered to the Returning Officer in a form and by a means nominated by the Returning Officer.

c) 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 the Returning Officer finding a defect in any nomination, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give the nominee the opportunity of remedying the defect where practicable within a reasonable period of the nominee having been so notified.

d) ~~The election of the Association Executive Officers shall commence immediately upon the initiation of the afternoon session of the second day of the National Council Meeting occurring in an election year. Pursuant to sub Rule (1) of this Rule the election of the Association Executive Officers shall be held during the National Council meeting occurring in an election year during the period of such a year prescribed by sub Rule (1) of Rule 76.~~

e) If only one nomination for a position is received by the Returning Officer, the nominee shall be declared elected. If two or more nominations are received the Returning Officer shall forthwith conduct a ballot of National Council members in accordance with this Rule and declare the result as soon as it becomes available.

f) If more nominations are received than there are vacancies for a position, the Returning Officer shall have ballot papers prepared containing the names of the candidates for each position in order determined by lot, 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.

- g) The Returning Officer shall be responsible for the safe custody of the ballot papers and shall initial every ballot paper prior to distribution.
- h) The Returning Officer shall provide a ballot paper to each member of the National Council in attendance at the meeting who is eligible to vote and shall arrange for the use of a receptacle to which ballot papers shall be returned to. After the closing of the ballot, the Returning Officer shall collect the ballot papers from such receptacle.
- i) Upon collecting the same the Returning Officer shall, in the presence of the scrutineers (if so requested), count all the votes cast and, subject to paragraph (j) of this Sub Rule, declare the result of the ballot.

j) If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows:

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(A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.

(B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.

(C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw. In the event of a tie occurring, the result shall be determined by the Returning Officer drawing lots in the presence of the tied candidates.

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k) Upon declaration of the ballot, the Returning Officer shall seal and retain all ballot papers for a period of twelve (12) months after the conduct of the ballot.

4) Casual Vacancy

a) Where a casual vacancy (howsoever occurring) arises in the office of President, Vice President, Secretary/Treasurer or any of the Executive Members then the Secretary/Treasurer or in the case of casual vacancy in the office of Secretary/Treasurer, the President, shall take immediate action to have such vacancy filled provided that:

(i) Where the unexpired portion of the term of office in which the vacancy occurs does not exceed three quarters of the term, the Executive may fill such vacancy by appointment of an eligible member of the National Council; and

(ii) Where the unexpired portion of the term of office in which the vacancy occurs exceeds three quarters of the term, the Executive may fill such vacancy by

appointment of an eligible member of the Association until an election is held, provided that no person so appointed shall hold office for a period exceeding three months.

- b) Such election shall be conducted by secret postal ballot of the members of the National Council by the Returning Officer appointed pursuant to Rule 94(6), and the Returning Officer so appointed shall determine the dates for the opening and closing of nominations and the ballot. The Returning Officer shall report the result of the election to the next following meeting of the Executive.
- c) Any person so elected shall take office from the date of the declaration of their election and shall hold office until the expiration of the term of the person they replaced.
- d) In all other respects such election shall be conducted in accordance with the provisions of this Rule.

5) System of Voting

- a) The system of voting in any election conducted pursuant to this Rule shall be the first-past the post system.
- b) A voter shall record their votes by marking sequential numbers on the ballot paper, commencing with the number 1, in the squares opposite the names of the candidates so as to indicate the order of the voter's preference for each candidate, provided that failure by a voter to mark a preference beyond the number of candidates to be elected shall not invalidate the vote of that voter.

6) Returning Officer

Subject to the requirements of the *Fair Work (Registered Organisations) Act 1999*:

- a) At its first meeting after the certification of these Rules, the Executive shall appoint a Returning Officer for the conduct of any elections, ballots or plebiscites as may be necessary throughout the ensuing period provided that a duly appointed Returning Officer shall hold office until a successor thereto is duly appointed.
- b) A Returning Officer:
 - (i) Need not be a member of the Association; and
 - (ii) In any event, shall not be the holder of any office in or an employee of the Federation, Association or any Zone of the Association.
- c) 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 ballot or plebiscite or not, the Executive shall appoint another person to act as Returning Officer for that election, ballot or plebiscite.

- d) The Returning Officer shall have power to appoint such assistants as deemed necessary provided that such assistants shall at all times be subject to the absolute control and direction of the Returning Officer.

7) Scrutineers

Any candidate may if they so desire appoint a scrutineer who is a financial member of the Association, to represent them at the ballot. The candidate appointing the scrutineer shall, before the closing of nominations, notify the Returning Officer in writing of the name of such scrutineer, who:

- a) 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 votes or queries;
- b) Shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election;
- c) Shall not interfere with or attempt to influence any member at the time such member is casting their vote.

8) Absent Voting

A member who is entitled to vote and who will be absent during the conduct of the ballot may apply for an absent vote by lodging with the Returning Officer, prior to the National Council meeting, a written request for an absent vote, together with an address at which they can receive communications. The Returning Officer shall forward a ballot paper to the address so specified and shall notify the member of the closing date for the absent vote to be lodged.

95 - ZONE ELECTION RULE

1) General

The provisions of this Rule shall apply to all elections for the following offices in a Zone:

- a) Zone Convenor; and
- b) Workplace Delegate

2) Tenure of Office and number of offices

- a) Where an established Zone exists, Zone Convenors and Workplace Delegates, who are Delegates to National Council in accordance with Rule 72 (3), shall be elected by secret postal ballot of all financial members within their respective Zones. They shall take office from the declaration of their election and shall hold office for a period of two years or until a successor thereto has been elected and taken office.
- b) Where a new Zone is established under Rule 85(2), Zone Convenors and Workplace Delegates, who are Delegates to National Council in accordance with Rule 72(3), shall be

elected by secret postal ballot of all financial members within the new Zone. They shall take office from the declaration of their election and shall hold office for a period pre-determined by the Executive which ensures that the expiry date of the term of office is synchronised with the majority of the established Zones of the Association.

- c) The number of Workplace Delegates to be elected for each Zone shall be determined in accordance with the formula in Rule 72 (3) as at the date of the close of the roll of voters for each election for those offices.

3) Qualifications for Office

A nominee for any office in a Zone shall be a financial member of the Association and allocated to that Zone as at the date of their nomination.

- 3A) A member may not vote, nominate candidates for election or nominate for election in any Zone other than the one to which that member has been allocated by the Secretary/Treasurer pursuant to Rule 64 prior to the close of the roll ("the closure") unless the Secretary/Treasurer declares in writing to the Returning Officer before the calling of nominations that:

- (i) the allocation of that member to that Zone prior to the closure of the roll did not conform to the requirements of the applicable National Executive resolution ("the relevant Resolution") in effect at the time that the Secretary/Treasurer made the allocation; or
- (ii) subsequent to the allocation and prior to the closure the employment circumstances of the member had altered to such an extent that compliance with the relevant Resolution required the allocation of that member to another Zone

- in which case the member shall be reallocated to the correct Zone and may vote, nominate candidates for election and stand for election in that Zone.

4) Returning Officer

The Returning Officer is appointed in accordance with Rule 94(6).

5) Conduct of Elections

The Call for Nominations

- a) Not later than the 1st day of June in the year of an election, the Returning Officer shall call for nominations by circular (which may be by electronic means) to all eligible members of the Zone under this Rule, or by advertisement in a daily newspaper and/or Union Journal circulating throughout the State or Territory in which the Zone has members, and shall publish nomination forms on the Association's website and issue nominations forms to any financial member requesting the same.
- b) Nominations shall be in writing, signed by the nominee and the nominator (who shall be a financial member of the ~~Zone~~Branch) and shall be delivered to the Returning Officer at

the address or in the manner (including electronic form) specified in the circular calling for nominations not later than 5pm on the 1st day of July in the year of the election.

bA) Nominations may be withdrawn up to and including 5 working days after the time and date the Returning Officer has declared that nominations shall close. The withdrawal of such nomination shall be in the form determined by the Returning Officer and shall be signed by the nominee.

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Nominations Close

- c) 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 finding a defect in any nomination the Returning Officer shall before rejecting the nomination notify the person concerned of the defect, and, where practicable give them the opportunity of remedying the defect in not less than seven days after the person is notified.
- d) If there are not more nominations than there are vacancies for a position, they shall declare the nominated person or persons elected to the position.

Preparation for an Election: the Preparation of Ballot Papers

- e) If more nominations are received than there are vacancies for a position, they shall have ballot papers printed and delivered to them containing the names of the candidates for each position in order determined by lot, indicating the number to be elected to each position, the manner in which votes shall be recorded, and the date and time of closing of the ballot such date being not later than the 31st day of August immediately following the closing of nominations. The roll of voters for the ballot is to be closed twenty-one (21) days before the day on which nominations for the election open.
- f) The Returning Officer shall be responsible for the safe custody of the ballot papers.
- g) They shall obtain from the printer a certificate of the number of ballot papers printed.
- h) They shall initial every ballot paper prior to its distribution.

Arrangements for the Receipt of Ballot Material

- i) The returning officer shall, for the purposes of receiving ballot material in respect of a ballot, use a private box or other secure postal facility at a post office or mail centre. Access to the private box mentioned in this rule shall be limited to:
- Persons authorised by Australia Post,
 - The returning officer, and
 - Persons authorised in writing by the returning officer.

The Delivery of Ballot Papers to Eligible Voters

- j) On or before the opening day of the ballot the returning officer shall forward ballot material in a sealed envelope by prepaid post to each person on the roll of voters at the address shown on the roll of voters.
- k) Ballot material shall include:
- a) one or more ballot papers showing the time and date of the close of the ballot
 - b) a Reply-Paid envelope addressed to the private box referred to in the rule, being an envelope that may be posted without expense to the voter,
 - c) an inner 'Declaration Envelope' as prescribed by the Act, suitable for containing the ballot papers.
 - ~~d) a copy of each statement submitted by candidates under rule 15.~~

Lost, Destroyed or Spoilt Ballot Papers

- l) Where a member whose name is on the roll of voters claims that the ballot material has not been received or has been lost, destroyed or spoilt, the member may make an application to the Returning Officer for the issue of replacement ballot material
- m) The application shall
- be in writing
 - set out the applicant's full name and postal address
 - set out the grounds on which the application is made
 - contain a declaration that the applicant has not voted in the ballot
 - be accompanied, if practicable, by any evidence that is available of the loss, destruction or spoiling of the ballot material.
- n) If the returning officer is satisfied that the information contained in the application is true and correct, the returning officer shall issue replacement ballot material to the applicant.

The Safe Custody of Ballot Papers that are Returned

- o) During the course of the ballot the returning officer may collect returned envelopes from the private post box and keep them in safe custody until the commencement of the scrutiny. The returning officer shall make a final clearance of returned envelopes so that all envelopes received by the returning officer prior to the closing time for the ballot are admitted to the scrutiny. No envelopes returned after the close of the ballot shall be admitted to the scrutiny.

The Scrutiny of Ballot Papers

- p) The returning officer shall conduct a preliminary scrutiny of returned declaration envelopes to ensure that only one returned envelope from each eligible voter is admitted to the count. The returning officer may commence the preliminary scrutiny prior to the close of the ballot.
- q) Before proceeding to count the votes to ascertain the result of the ballot, the returning officer shall:
- remove the 'Declaration Envelope' from the Reply-Paid envelopes, and
 - examine the voter's declaration attached to each 'Declaration Envelope' and mark off the voter's name against a copy of the roll of voters.
- r) A voter's returned ballot material shall be rejected and set aside if:
- the 'Declaration Envelope' has not be returned, or
 - the voter has not completed the declaration on the 'Declaration Envelope' to satisfy the returning officer,
 - the voter is ineligible to vote, or
 - the returning officer is unable to identify the voter on the roll of voters.
- s) Where a voter returns more than one set of ballot material, only one set of ballot material shall be admitted into the count. The returning officer shall decide which set of ballot material is to be rejected.
- t) The returning officer note shall on the ballot material that it has been rejected and the reason for rejection and set it aside for separate custody.
- u) When the returning officer has determined which declaration, envelopes are accepted for the count, the declaration section of each envelope is detached and removed so that the envelope can no longer be identified. Each envelope shall then be opened, and the ballot papers extracted to be counted.
- v) The returning officer shall reject as informal a ballot paper that:
- Does not bear the initials or other authenticating mark of the returning officer, and/or
 - Has upon it any mark or writing by which the voter, can be identified, and/or
 - Is not marked substantially in accordance with the instructions included on the ballot paper, and/or
 - The marking is such that the intention of the voter is not clear, and/or

- Is not returned inside the declaration envelope.

w) Where, during the ballot, the returning officer is informed by a scrutineer that the scrutineer objects to a returned envelope or a ballot paper being accepted or rejected, the returning officer shall decide whether the returned envelope or ballot paper is to be admitted all rejected and endorse the decision on the envelope or ballot paper. The decision of the returning officer is to be final.

Tied Vote

(x) If at the conclusion of the count of the ballot papers, two or more of the candidates have the same number of votes (a tie), the result shall be determined by the Returning Officer as follows.

(A) If one of the candidates held the affected office immediately prior to the calling of nominations for the election that produces the tied vote, that candidate shall be declared to be elected.

(B) If (A) does not apply, the Returning Officer will determine the result by drawing lots amongst the candidates.

(C) If (B) applies, the Returning Officer will give written invitations to the tied candidates to attend the draw. The draw will take place at the location and time nominated in the invitations. The draw will proceed at the specified place and time, whether or not any of the invited candidates are present. The Returning Officer will declare the result of the election determined pursuant to this paragraph immediately following the completion of the draw.

The Returning Officer's Report to the Executive Meeting

(y) The Returning Officer will provide a report of the result of the election for the next Executive Meeting and shall submit to that meeting a full report of the ballot indicating the number of ballot papers printed, the number distributed and the number on hand and any other relevant matter.

Eligible members

(z) Eligible members under this Rule shall be the financial members of the Zone.

6) Scrutineers

Any candidate may if they so desire appoint a scrutineer who is a financial member of the Association to represent the candidate at the ballot. The candidate appointing the scrutineer shall notify the Returning Officer in writing of the name of such scrutineer, who:

- a) 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 votes so queried;
- b) Shall not be entitled to remove, mark, alter or deface any ballot paper or other document used in connection with the election; and
- c) Shall not interfere with or attempt to influence any member at the time such member is casting their vote.

7) Casual Vacancies

- a) Where a casual vacancy, howsoever occurring in the office of
 - (i) Zone Convenor; and
 - (ii) Workplace Delegate
- b) The Executive shall take immediate action to have such vacancy filled by secret postal ballot of all financial members of the Zone provided that:
 - (i) Where the unexpired portion of the term of office in which the vacancy occurs does not exceed one year, the Executive may fill such vacancy by appointment of a financial member of the zone; and
 - (ii) Where the unexpired portion of the term of office in which the vacancy occurs exceeds one year, the Executive may fill such vacancy by appointment of a financial member of the zone until an election is held, provided that no person so appointed shall hold office for a period exceeding three months.
- c) Such election 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 Executive.
- d) Any person so elected shall take office from the date of the declaration of their election and shall hold office until the expiration of the term of the person they replace.
- e) In all other respects, the election shall be conducted in accordance with the foregoing provisions of this Rule.

8) System of Voting

- a) The system of voting in any election conducted pursuant to this Rule shall be the first-past-the post system.
- b) A voter shall record their vote by marking sequential numbers on the ballot paper, commencing with the number 1, in the squares opposite the names of the candidates so

as to indicate the order of the voter's preference for each candidate, provided that failure by a voter to mark a preference beyond the number of candidates to be elected shall not invalidate the vote of that voter.

9) Absent Voting

A member who is entitled to vote and who will be absent during the conduct of the ballot may apply for an absent vote by lodging with the Returning Officer prior to the distribution of ballot papers a written request for an absent vote together with an address at which they can receive communications. The Returning Officer shall forward a ballot paper to the address so specified and shall notify the member of the closing date for an absent vote to be lodged.

96 – DUAL OFFICES

1) In the event of a candidate being elected pursuant to Rule 94 to more than one office as defined in Rule 72 or in the event of a candidate being elected to more than one office pursuant to Rule 95, that candidate shall be declared elected to the higher or highest of such offices.

2) For the purposes of this Rule, the order of precedence shall be:

a) In the case of the offices referred to in Rule 72:

President

Vice-President

Secretary/Treasurer

Executive ~~member~~Member

b) In the case of the offices referred to in Rule 95:

Zone Convenor

Workplace Delegate

3) ~~If a candidate declared elected to a higher office is a candidate for election to a lower office, the Returning Officer shall disregard any primary vote cast for that candidate in the election for the lower office and shall allocate, according to the order (if any) expressed by the voter, the vote of the voter to the next candidate indicated who has not been declared elected to a higher office. A vote so allocated shall be counted as a primary vote for the candidate to whom it is so allocated.~~

4) ~~Where more than one vacancy for a position is to be filled, the preferences marked to the number of vacancies to be filled shall be primary votes and shall have equal value and shall be allocated to the candidates for whom they are cast.~~

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5) — No member shall simultaneously hold office as an Association Executive Officer, Zone Convenor, or Workplace Delegate provided that in respect of any Zone falling within paragraph (i) of Rule 72 (3), the delegate shall also be the Zone Convenor.

97 - ELECTION OF ASSOCIATION DELEGATES TO FEDERAL COUNCIL

- 1) The delegates to Federal Council representing the Association shall be the President and, depending on the application of the formula set out in Rule 14 of the Federation Rules, the other Association Executive Officers.
- 2) The order of Association Executive Officers for the purpose of Rule 97(1) shall be:
 - a) the President;
 - b) the Vice President;
 - c) the Secretary/Treasurer
 - d) Executive ~~members~~Members in order of election.

CHAPTER 5 – ASSETS AND FINANCE

98 - ASSOCIATION FUNDS AND PROPERTY

- 1) The funds and property of the Association shall consist of:
 - a) Any real or personal property of which the Association 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;
 - b) The amounts of fees, subscriptions and levies payable to the Association pursuant to these Rules; less so much of the amounts as is payable by the Association to the Federal funds as defined;
 - c) Any interest, rents, dividends, or other income derived from the investment or use of such funds and property;
 - d) Any superannuation or long service leave, or other funds operated or controlled by the Association as a whole in accordance with these Rules for the benefit of its officers or employees;
 - e) Any sick pay funds, accident pay funds, funeral fund or like funds operated by the Association as a whole in accordance with these Rules for the benefit of its members;
 - f) Any property acquired wholly or mainly by expenditure of the moneys of such funds and property or derived from other assets of such funds and property; and

- g) The proceeds of any disposal of parts of such funds and property.
- 2) The funds and property of the Association shall be controlled by the Executive which shall have power to expend the funds of the Association for the purposes of carrying out the objects of the Association. For the expenditure of the funds of the Association on the general administration of the Association and for purposes reasonably incidental to the general administration of the Association, the prior authority of the Executive shall not be necessary before cheques are signed or accounts paid.
- 3) Fees, subscriptions and levies shall be paid to the General Manager.
- 4) Prior to the commencement of the financial year, the General Manager shall submit for consideration and determination by the Executive a proposed budget for the forthcoming financial year. The Executive shall be responsible for the allocation of Association funds.
- 5) The financial year of the Association shall end on the 30th Day of June in each year.
- 6) The Executive will develop and approve policies in relation to the expenditure of the Association's funds and management of its property, including policies to ensure fiduciary prudence in these matters.

99 – LOANS, GRANTS AND DONATIONS

Notwithstanding any other provisions of these Rules, the following shall apply in relation to the Association giving any loans, grants and donations:

- 1) No loan, grant or donation of an amount exceeding \$1,000 shall be made unless the Executive is satisfied:
 - a) That the making of the loan grant or donation would be in accordance with the other Rules of the Association; and
 - b) 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.
- 2) Notwithstanding Sub Rule (1), the President may authorise the making of a loan, grant or donation of an amount not exceeding \$3,000 to a member of the Association if the loan, grant or donation:
 - a) Is for the purpose of relieving the member or any of the member's dependants from severe financial hardship; and
 - b) Is subject to a condition to the effect that, if the Executive at its next meeting does not approve the loan, grant or donation, it shall be repaid as determined by the Executive.
- 3) In considering whether to approve a loan, grant or donation under Sub Rule (2), the Executive shall have regard to:

- a) Whether the loan, grant or donation was made under the Rules of the Association; and
- b) In the case of a loan:
 - (i) The security (if any) given for the repayment of the loan is adequate; and
 - (ii) The arrangements for the repayment of the loan are satisfactory.
- 4) Nothing in this Rule is intended to apply to or prevent the reimbursement of out-of-pocket expenses incurred by persons for the benefit of the Association.

100 – ASSOCIATION AUDITOR

The Association Auditor shall:

- 1) Be appointed annually by the Executive, and may only be removed by the Executive during their term of appointment by a special resolution of the Executive;
- 2) Perform such functions and duties as are prescribed by the RO Act including the yearly audit of the Association’s accounts and such other functions and duties not inconsistent with the RO Act as are required by the Executive;
- 3) Have access to examine if desired all books, papers, deeds, documents and accounts of the Association and be empowered to question any office bearer or officer or employee of the Association with regard to the same and to obtain from any financial or other institution at which the funds of the Association are deposited or invested, such information as they may require; and
- 4) Have power to place before the Executive any suggestion they may desire to make concerning financial affairs of the Association.

CHAPTER 6 – ALTERATIONS OF RULES

101 – MAKING OR ALTERATION OF ASSOCIATION RULES

Subject to Rule 34(b) of the Federation Rules:

- 1) The National Council shall have power to make new Rules or to add to, amend, rescind or otherwise alter these Rules by resolution carried by a majority of members voting at a meeting of the National Council or by postal ballot of the members of the National Council conducted pursuant to these Rules.
- 2) ~~Notice~~ Notwithstanding the provisions of Rule 76 (3) and Rule 79 (5) of these Rules, notice of any proposal for the making of a new Rule or for the adding to, amendment, rescission or other alteration of any of these Rules shall be given in writing to each member of the National Council at least fourteen days one month prior to the relevant meeting of the National Council or to the

commencement of the postal ballot (as the case may be) provided that any such proposal may itself be amended when being considered by the relevant meeting of the National Council.

- 3) The ~~President~~ Secretary/Treasurer shall within thirty-five (35) days of the making, addition to, amendment or rescission of these Rules file with the Fair Work Commission full particulars of the alteration in such form and manner that the Commission's representative is able to form an opinion whether or not the alteration can be certified.
- 4) The President shall as soon as practicable, but not later than seven (7) days after filing particulars with the Fair Work Commission pursuant to Sub Rule (3) of this Rule, forward to the Executive a true copy of the said particulars and a copy of all correspondence and documents with respect to the FWC General Manager's dealing with the alteration.

CHAPTER 7 – OTHER MATTERS

102 – ARBITRATION PROCEEDINGS AND INDUSTRIAL AGREEMENTS

Without affecting the operation of Rules 15 and 28 of the Federation Rules:

- 1) The Executive shall have the power and authority to lodge or file any claims, demands, disputes or other matter with the Fair Work Commission or such other court or authority as it may deem necessary in the interests of the Association or any member or group of members.
- 2) The Executive may authorise the Secretary/Treasurer, any Association Officer or an Association employee to lodge any such claim, demand, dispute or other matter and to authorise that Officer or employee, or any other person, to represent the Association in the conduct of proceedings arising from such lodgement.
- 3) The Executive shall have power and authority to negotiate and enter into industrial agreements for the members of the Association. Any such agreement shall be signed either by the President as authorised by the Executive to do so.

103 – INSPECTION OF BOOKS & CONSIDERATION OF FINANCIAL REPORTS

Any financial member of the Association may at a reasonable time during normal office hours inspect the audited financial returns and membership records of the Association upon giving the Secretary/Treasurer seventy-two (72) hours' notice of their wish to do so.

104 – MEMBERS ENGAGED ON ASSOCIATION BUSINESS

- 1) Should any member of the Association lose any part of their salary or wages or be required to work extra time in consequence of their having been engaged on the business of the Association or their Zone under instructions from the Executive or their Zone Committee as the case may be, the Association shall make good all such loss or shall remunerate the member at their rate of

salary for the time occupied by them whilst so engaged. Reasonable out-of-pocket expenses shall be allowed for members engaged on Association or Zone business.

- 2) Any Officer or member transacting business on behalf of the Association or any Zone thereof shall report on such business to the body which appointed them to carry out such business. Any such Officer or member neglecting to make such report may forfeit all claims for any time lost and expenses incurred whilst so engaged in such business.

105 – LEGAL ASSISTANCE

- 1) The Association may provide legal assistance to a member for any matter directly or indirectly connected with or having an impact or effect upon the performance of duty by the member in the AFP, or for any other matter affecting the member.
- 2) The National Council shall determine, and when necessary amend the scheme for the provision of legal assistance to members, and such scheme as it provides from time to time will be published by the Association on its website.

106 – STANDING ORDERS AND RULES OF DEBATE

The Executive shall determine from time to time the standing orders and Rules of debate to apply to meetings of the Association. A copy of such standing orders and Rules of debate as determined from time to time shall be supplied free of charge by the Secretary/Treasurer or by a Zone Convenor to any financial member of the Association requesting the same.

107 – GENERAL MANAGER

- 1) The Executive shall appoint a suitably qualified person (who need not be a member of the Association) to be employed full time as General Manager of the Association, on terms and conditions determined by the Executive, but subject to the subsequent provisions of this Rule.
- 2) The maximum term of appointment to the position of General Manager must not exceed three (3) years, although a further contract or contracts not exceeding such a term may be offered to such an employee if that person's performance, in the opinion of the Executive, justifies such further contract or contracts; however, no one person may be continuously employed by the Association as General Manager, or in any other position of similar character and rank for more than ten years, unless the Executive decides to do so by a special resolution.
- 3) The Executive must retain the right to terminate the employment of the General Manager:
 - a) Summarily for cause; or
 - b) On notice without cause, such notice not to exceed three (3) months, or payment in lieu thereof.
- 4) The full list of the duties of the position of General Manager will be determined by the Executive from time to time, but without limiting the duties that may be so assigned shall include the

responsibility of managing and administering the National Office and the Association's employees and may include any of the duties of the Secretary/Treasurer under these Rules (including that of being a signatory to any Association account).

- 5) Provided that:
- a) Any of the duties of the Secretary/Treasurer delegated to the General Manager shall be performed by the latter under the supervision or at the direction of the Executive for the purpose of carrying out the policies of the Association or the decisions of the Executive;
 - b) Any delegation of any of the duties of the Secretary/Treasurer to the General Manager may be subject to exceptions, either generally or for particular occasions, or may be wholly or partially revoked by resolution of the Executive at any time;
 - c) Responsibility for all acts and omissions done pursuant to any such delegation shall remain that of the Executive or the Secretary/Treasurer, as the case may be; and
 - d) The Secretary/Treasurer shall be and remain the prescribed officer of the Association responsible for the keeping of all registers and the filing and furnishing of documents required by the RO Act.

108 – TRANSITIONAL – ASSOCIATE MEMBERS

- 1) There shall be no associate member category of membership of the Association as and from the ~~date of certification of this Rule~~ 24 May 2017.
- 2) Any person who was an associate member of the Association as at 24 May 2017 ~~the date of certification of this Rule~~ may remain such a member until the Association, pursuant to resolution of the Executive, or the associate member concerned, give notice to the other party of termination or resignation, as the case may be, on not less than twenty eight (28) days' notice.