

Notice setting out particulars of Alterations of Rules (other than eligibility rules) or an organisation – S.159

FWC matter No:

**NOTICE/APPLICATION FOR CERTIFICATION OF ALTERATION OF RULES
(OTHER THAN ELIGIBILITY RULES)**

Fair Work (Registered Organisations) Act 2009 – s.159
Fair Work (Registered Organisations) Act 2009 – regulation 126

Applicant Organisation

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing & Allied Services Union of Australia (“the CEPU”)

Address: Suite 408, Level 4, 30-40 Harcourt Parade, Rosebery, NSW 2018

Contact person: Annette Moran

Phone: 02 9663 3699

Email: annette@etuaustralia.org.au; admin@etuaustralia.org.au

The Applicant applies to the Fair Work Commission for certification of an alteration to the Rules of the Organisation. This document will be referred to as “this Notice”.

Attached to this Notice and marked “Annexure 1” is a declaration by an authorised officer of the applicant that provides the particulars of the making of changes to the rules of the applicant.

This notice is given to certify alterations made to the national rules of the applicant as follows:

SECTION A OF THE CEPU RULES COVERING THE NATIONAL COUNCIL

1. Amend rule 6.2.2 as follows¹:

6.2.2 Where a matter directly affects members of both the Electrical, Energy and Services Division and the Plumbing Division who are eligible to be members pursuant to rule 2.4, each Divisional Secretary and each Divisional Branch Secretary of a Branch with members affected, shall give written notice and particulars of the matter to the Divisional Secretary and Branch Secretary of a Branch with members affected in the other Division as soon as practicable and in the event of a dispute between the Divisions in respect of the matter, the Divisional Secretaries of each Division shall meet to try to resolve the matters in dispute.

¹ Higher threshold of approval by NC is required to alter this rule – refer rule 21.4

If the Divisional Secretaries fail to resolve the matter/s they shall prepare a report for the consideration of a nominee or nominees of the Divisional Executive of each Division who shall meet and try to resolve the matter/s.

If a resolution still cannot be reached, the matters shall be dealt with by the National *Council Executive*.

2. Delete rule 7A in its entirety.

~~7A—NATIONAL EXECUTIVE~~

~~7A.1—Constitution of National Executive~~

~~There shall be a National Executive which shall be comprised of sixteen (16) members as follows:~~

~~7A.1.1—the four (4) National Executive Officers who shall represent their respective divisions or divisional or industry groups as the case may be; and~~

~~7A.1.2—twelve (12) National Executive members representing each of the Divisions as follows;~~

~~7A.1.2.1—three (3) National Executive members from the Electrical, Energy and Services Division;~~

~~7A.1.2.2—three (3) National Executive members from the Plumbing Division;~~

~~7A.1.2.3—three (3) National Executive Members comprising two (2) from the Postal Services Industry Group and one (1) Affirmative Action position being elected from eligible female members of National Council; and~~

~~7A.1.2.4—three (3) National Executive Members comprising two (2) from the Telecommunications and Information Technology Industry Group and one (1) Affirmative Action position being elected from eligible female members of National Council;~~

~~elected from the National Councillors of each Division, Divisional Group or Industry Group as the case may be in accordance with rule 13A “Election of the National Executive”.~~

~~7A.2—Powers and functions of the National Executive~~

~~Subject to the overriding control of the National Council, the National Executive shall exercise all of the powers of the National Council in between meetings of the National Council, except for Council's power under sub rules 7.1.2.2 and 7.1.2.9.~~

~~7A.3—Election to National Executive~~

~~7A.3.1 — The first National Executive shall be elected by postal ballot as soon as practicable after the 1996 annual meeting of National Council and remain in office until the first quadrennial elections in 1999. Thereafter, the National Executive shall be elected quadrennially commencing from the annual meeting of National Council in 1999.~~

~~7A.3.2 — The election of the National Executive shall be conducted in accordance with rule 13A "Election of the National Executive".~~

~~7A.4 — Quorum on National Executive~~

~~A majority of National Executive members shall constitute a quorum, provided each Division is represented.~~

~~7A.5 — Voting on the National Executive~~

~~7A.5.1 — Subject to rule 7A.5.3, each National Executive member shall exercise one quarter of the voting power allocated to his or her Division or Industry Group as the case may be.~~

~~7A.5.2 — Divisional voting power is determined by adding the voting power of each Branch of the Division or Industry Group which in turn is determined in accordance with sub rules 7.14.2 and 7.14.3.~~

~~7A.5.3 — These votes shall be divided equally among the Executive members attending the meeting or voting in a postal ballot.~~

~~7A.5.4 — A resolution put to the National Executive is carried if 60% of all votes are cast in favour of the resolution.~~

~~— 7A.5.5 — In the event of a tied vote, the resolution shall be declared lost.~~

~~7A.6 — National Executive Proxies and Alternates~~

~~7A.6.1 — In the case of the Electrical, Energy and Services Division and the Plumbing Division, each National Executive member shall be entitled to nominate a proxy to attend and vote at meetings of the National Executive. Provided that such a proxy is a member of the National Council representing the Division of the absent Executive Member.~~

~~7A.6.2 — In the case of the Communications Division:~~

~~7A.6.2.1 — An alternate National Executive member shall be elected for each National Executive member elected in accordance with rules 7A.1.2.3 and 7A.1.2.4.~~

~~7A.6.2.2 — If a National Executive member cannot attend a National Executive meeting, an elected Alternate National Executive member, where necessary selected in the order determined by Divisional Executive, on the recommendation of the relevant Divisional Council, shall attend the meeting in his or her place.~~

~~7A.7—Reference to National Council~~

~~—Where requested by the majority of the Executive members of a particular Division or Industry Group, including the relevant National Executive Officer, any matter before the Executive shall be referred to National Council for its determination.~~

~~7A.8—Convening Meetings of National Executive~~

~~The National Executive shall meet:~~

~~7A.8.1—when determined by the National Secretary and any other National Executive Officer.~~

~~7A.8.2—when the majority of the members of the National Executive request that the National Secretary convene a meeting of the National Executive.~~

~~7A.8.3—when a resolution of the National Executive or the National Council calls for a meeting.~~

~~7A.8.4—where requested by a Division.~~

~~7A.8.5—upon receipt by the National Secretary of a request in writing by not less than three (3) Divisional Branches authorised by the relevant branch committees of management.~~

~~The request shall include the matter(s) to be discussed and include the minutes of the meetings of Branches calling for the National Executive meeting. The National Secretary shall convene a meeting within 14 days of receiving the request.~~

~~7A.9—Notification of National Executive Meetings~~

~~All members of the National Executive shall be notified of National Executive meetings in accordance with rule 9 "Manner of Summoning Meetings".~~

~~7A.10—Agenda for National Executive Meetings~~

~~The agenda for a meeting of the National Executive shall be prepared by the National Secretary, provided that any member of the Executive may add items to the agenda. Matters raised by a least four Divisional Branches under rule 7A.8.5 shall be dealt with as a priority.~~

~~7A.11—Meetings of National Executive by Telephone and/or Video Conferences and Out of Session Decisions~~

~~7A.11.1—Where, in the opinion of the National Secretary it is more practical to hold a meeting of the National Executive by telephone or video conference, the rules applying to the holding of and voting at National Executive meetings will apply. Provided that any vote taken by telephone or video conference shall be recorded in the minutes of the meeting.~~

~~7A.11.2—Where in the opinion of the National Secretary it is considered impractical to hold a meeting of the National Executive, the National Secretary or someone nominated by him/her may submit a matter to the National Executive members for an out of session decision by post, facsimile, or electronically (whether via electronic mail, sms, online or otherwise) in such form as the National Secretary decides. The National Secretary may prescribe a time in which the vote may be returned and/or a preferred method by which the Executive members should return their vote. The Executive members shall record their vote on the matter so submitted and send it to the National Secretary by post, facsimile or electronically (whether via electronic mail, sms, online or otherwise) within the prescribed time where relevant. Each vote must be signed by, or be otherwise verifiably attributable to the Executive member recording it. If a time is prescribed for the return of the vote, failure to lodge a vote within that time means the vote will not be recorded. Failure to lodge a vote in a prescribed time will not render the decision invalid. A decision shall be deemed in the affirmative if the conditions of rule 7A.5 are met.~~

~~7A.11.3—The National Secretary shall ensure that details of any decision made pursuant to this rule are communicated to each Divisional Secretary and the Divisional President in the case of the Communications Division, within seven (7) days of the decision being taken.~~

~~7A.12—Minutes of National Executive Meetings~~

~~The National Secretary shall ensure that minutes of the National Executive meetings are prepared and circulated to the National Executive members within 28 days after the meeting.~~

~~7A.13—Chairing National Executive Meetings~~

~~National Executive meetings shall be chaired by the National President and in his or her absence, the National Vice President. In the absence of both the National President and National Vice President the meeting shall elect an Executive member to chair the meeting.~~

~~7A.14—The Committee of Management for Amalgamation~~

~~—For all purposes of the *Fair Work (Registered Organisations) Act 2009* and its predecessors, as amended, and without limiting the generality thereof, for the purpose of amalgamation of this Union with other organisations, subject to the authorisation by National Council the National Executive shall, notwithstanding any other rule to the contrary, be the Committee of Management and shall be authorised to take all steps to effect an amalgamation and alter any rules for that purpose.~~

3. Delete rule 9.2 as follows:

~~9.2 — Summoning Meetings of the National Executive~~

~~All members of the National Executive shall be notified in writing by the National Secretary of the time, date, place and agenda of any meeting of the National Executive. Such notice as is practical in the circumstances shall be given.~~

4. Renumber rule 9.3 and 9.4 as 9.2 and 9.3.

5. Amend rule 10.1.3 as follows:

10.1.3 When an officer or employee of the union is engaged on union business at the request of the National Council, ~~the National Executive~~ or the National Executive Officers, unless otherwise decided by the National Council ~~or Executive~~, any reasonable expenses incurred while on that business shall be met from the funds of the National Council.

6. Delete 10.2 as follows:

~~10.2 — Expenses for National Executive Business~~

~~— All expenses of National Executive members shall be met by the Division the Executive member represents.~~

7. Delete rule 13A in its entirety as follows:

~~**RULE 13A — ELECTION OF THE NATIONAL EXECUTIVE**~~

~~13A.1 — Frequency of Elections~~

~~The election of the National Executive shall be conducted in the quadrennial election year at the annual meeting of National Council. The first election at the annual meeting of National Council shall take place in 1999. The election shall be the first item of business after the elections for National Executive Officers have taken place.~~

~~13A.2 — Prerequisite of office~~

~~13A.2.1 — To be a National Executive member, the delegate must first hold office as a National Councillor. The loss of an office on National Council will disqualify the office holder from holding a position on the National Executive.~~

~~13A.2.2 — Executive members who fail to retain office pursuant to the quadrennial National Council election, shall hold over in their position on the National Executive until a National Executive member is elected from the Council as his or her replacement.~~

~~13A.3 — Nominations for National Executive~~

~~13A.3.1 — Nominations for positions on the National Executive must be in writing.~~

~~13A.3.2—Each candidate for a National Executive position must be nominated:~~

~~13A.3.2.1—in the case of the Electrical, Energy and Services Division and the Plumbing Division, by another member of the National Council from his/her own division; and~~

~~13A.3.2.2—in the case of the Communications Division by a member of the National Council, from his or her respective Industry Group.~~

~~13A.3.3—The Returning Officer shall notify any candidate of any defect in their nomination and give them an opportunity to rectify the defect.~~

~~13A.3.4—Where the number of candidates nominating does not exceed the number of positions those candidates shall be declared elected to the positions.~~

~~13A.4—Electorate of the National Executive~~

~~National Executive members can only be elected by and from among the National Councillors representing their own Division or Industry Group.~~

~~13A.5—Duties of the Returning Officer~~

~~13A.5.1—The Returning Officer shall have complete control of the ballot and in any disputed matter, the decision of the Returning Officer shall be final.~~

~~13A.5.2—The Returning Officer shall issue one ballot paper to each National Councillor for each vote in accordance with the formula prescribed in rule 7.14.4.~~

~~13A.6—Method of Voting~~

~~13A.6.1—National Councillors shall record their vote on the ballot paper with a tick or a cross. Where the intention is clear the vote will be included in the count. Where the intention is in dispute, the decision of the Returning Officer shall be final. The candidate who receives the highest number of votes shall be elected.~~

~~13A.6.2—When the voting is equal in any election conducted under this rule, in the event of one of the candidates being the retiring office holder, such candidate shall be declared elected. In other cases the matter shall be decided by the drawing of lots.~~

~~13A.6.3—The ballot shall be a secret ballot.~~

~~13A.7—Scrutineer~~

~~13A.7.1—Each Division, or in the case of the Communications Division the respective Industry Group or candidate shall have the right to appoint scrutineers who shall be a National Councillor of the~~

~~respective Division or Industry Group, to represent them at the ballot.~~

~~13A.7.2—Scrutineers shall have the right to inspect ballot papers but shall not handle ballot papers.~~

~~13A.7.3—Scrutineers shall accept responsibility for being present during the times fixed by the Returning Officer for the counting of the ballot, and counting of the ballot shall not be delayed by the absence of any or all of the scrutineers.~~

~~13A.8—Absent Voting~~

~~A National Councillor can appoint a proxy who is appointed or elected in accordance with rule 7.15 "National Council Proxies and Alternate National Councillors" to vote in his/her absence.~~

~~13A.9—Unfinancial Divisions~~

~~In the event that any Division is unfinancial in accordance with decisions of National Council, the National Councillors from that division shall not be entitled to participate in the elections prescribed by this rule.~~

~~13A.10—Declaration of election~~

~~As soon as the counting of each ballot is concluded the Returning Officer shall declare the result forthwith and the new office holders shall be installed immediately.~~

~~13A.11—Election Irregularities~~

~~Any accidental or unavoidable omission or error in the conduct of this rule shall not invalidate an election if such omission or error appears not to have affected the result of the election.~~

8. Delete rule 15.2 and renumber rule 15.3 as 15.2 as follows:

~~15.2—Casual Vacancy on the National Executive~~

~~15.2.1—Where a casual vacancy occurs on the National Executive, it shall be filled by an election conducted by postal ballot of the relevant National Councillors of the Division or Industry Group in which the vacancy occurs.~~

15.23 Casual Vacancies - National Executive Officers

15.23.1 If a National Executive Officer's position becomes vacant the vacancy shall be filled in accordance with the rules relating to the election of those offices. The election shall take place at the next National Council meeting which may take place by correspondence in accordance with rule 7.7 "National Decisions by Correspondence".

As the election must be by secret ballot, the National Council meeting may not be a telephone or video conference. The position must be filled within 3 months of the vacancy occurring.

15. ~~23~~.2 If the office of National President becomes vacant the Vice President shall assume the Office until the next election to take place in accordance with rule 15.2.1.

15. ~~23~~.3 If the office of National Secretary becomes vacant the Assistant National Secretary shall assume the Office until the next election to take place in accordance with rule 15.2.1.

9. Amend rule 30.1 as follows:

30.1 The National Council shall develop and implement policies and procedures relating to expenditure of the funds of the National Council by the National Executive Officers; ~~and~~ the National Council ~~and the National Executive~~.

10. Amend rule 31 as follows:

31.1 Each officer of the National Council ~~and National Executive~~, whose duties include duties (financial duties) that relate to the financial management of the Union must undertake training that:

11. Delete rule 36 and insert a new rule as follows:

36 – TRANSITIONAL RULE

36.1 The provisions of this rule will apply notwithstanding anything elsewhere contained in the rules of the union.

36.2 For the purposes of this rule, “relevant date” shall mean the date of the certification of this rule.

36.3 On the relevant date, all offices of the National Executive, as specified in the schedule below, shall be abolished. Until the relevant date, all office holders of the National Executive shall remain as office holders of the National Executive.

36.3.1 The office existing as at the date immediately prior to the relevant date is set out in column 1. The holders of those offices are set out in column 2. That the office is being abolished is set out in column 3.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>NATIONAL EXECUTIVE MEMBER REPRESENTING THE</i>	<i>OFFICE HOLDER</i>	<i>Office of National Executive Member abolished at relevant date</i>
<i>Communications Division - Postal Services Industry Group</i>	<i>Cameron Bird</i>	<i>YES</i>

<i>Communications Division - Postal Services Industry Group</i>	<i>Barry McVee</i>	<i>YES</i>
<i>Communications Division - Postal Services Industry Group - (Affirmative Action)</i>	<i>Nicole Robinson</i>	<i>YES</i>
<i>Communications Division - Postal Services Industry Group (Alternate)</i>	<i>Peter Chaloner</i>	<i>YES</i>
<i>Communications Division - Postal Services Industry Group (Alternate)</i>	<i>Nicholas Townsend</i>	<i>YES</i>
<i>Communications Division - Postal Services Industry Group (Alternate Affirmative Action))</i>	<i>Elly Huttly</i>	<i>YES</i>
<i>Communications Division - Telecommunications and Information Technology Industry Group -</i>	<i>James Perkins</i>	<i>YES</i>
<i>Communications Division - Telecommunications and Information Technology Industry Group -</i>	<i>Clinton Thomas</i>	<i>YES</i>
<i>Communications Division - Telecommunications and Information Technology Industry Group - (Affirmative Action)</i>	<i>Sue Riley</i>	<i>YES</i>
<i>Communications Division - Telecommunications and Information Technology Industry Group - (Alternate)</i>	<i>Peter O'Connell</i>	<i>YES</i>
<i>Communications Division - Telecommunications and Information Technology Industry Group - (Alternate)</i>	<i>Mark Templeman</i>	<i>YES</i>
<i>Communications Division - Telecommunications and Information Technology Industry Group - (Alternate Affirmative Action)</i>	<i>Valerie-Ann Butler</i>	<i>YES</i>
<i>Electrical Division</i>	<i>Troy Gray</i>	<i>YES</i>
<i>Electrical Division</i>	<i>Peter Ong</i>	<i>YES</i>
<i>Electrical Division</i>	<i>Justin Page</i>	<i>YES</i>
<i>Plumbing Division</i>	<i>Paddy McCrudden</i>	<i>YES</i>

<i>Plumbing Division</i>	<i>Gary O'Halloran</i>	<i>YES</i>
<i>Plumbing Division</i>	<i>Theo Samartzopoulos</i>	<i>YES</i>

FAIR WORK ACT 2009

FAIR WORK COMMISSION

Fair Work (Registered Organisations) Regulations 2009 – Regulation 126(2)

DECLARATION IN RELATION TO A NOTICE TO ALTER THE RULES of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing & Allied Services Union of Australia

On the 20 April 2020, I, Allen Hicks of Level 4, 30-40 Harcourt Parade, Rosebery 2018, NSW say:

1. I am the National Secretary of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (“the CEPU”), an organisation registered under the *Fair Work (Registered Organisations) Act 2009* and I am authorised to make this application on behalf of the CEPU.

2. The notice for certification of the alteration of the CEPU rules (“the notice”) to which this declaration is attached is for an application to alter the national rules of the union.

3. **Alterations made in accordance with the Rules of the Union**

The alterations made to the rules of the union, as detailed in the notice of alteration to the CEPU rules (other than the eligibility rules) were made in accordance with the rules of the CEPU. In compliance with the procedures prescribed by the CEPU rules to alter the rules of the union, the proposed alterations were made in accordance with those procedures as detailed below.

4. **Action taken under the rules by the National Council to make the alterations** - pursuant to national rule 21.1, the National Council has exclusive power to make, amend or rescind the national rules of the union. *The National Council* approved the rules alterations detailed in this notice in accordance with the following procedure:

4.1 In accordance with national rule 7.7, “National Council Out of Session Decisions”, on 2 April 2020 the National Secretary, with the agreement of the National President, submitted the rules alterations by email to the members of the National Council for an out of session decision to close on 17 April 2020.

4.2 Members of the National Council submitted their vote on the rules alterations by 17 April 2020.

4.3 National rule 7.11 “Quorum of National Council”, prescribes that, provided each Division is represented, a majority of National Council members shall constitute a quorum for any meeting of the National Council. National rule 7.7.3 applies rule 7.11 to out of session decisions. The out of session decision of the National Council meeting met the quorum requirements of national rule 7.11 as a majority of National Councillors participated in the vote and each Division was represented in the vote.

4.4 The resolution of National Council to approve the rules alterations met the voting requirements of national rule 7.17, “Carrying of National Council Resolutions”. In accordance with rule 7.17, at least 60% of the votes were cast in favour of the resolution to alter the rules. Further, with respect to the amendment of rule 6.2

“Autonomy of Divisions”, the additional voting requirement of national rule 21.4 was met as more than 90% of the votes cast, were cast in favour of the resolution.

5. Particulars are true and correct

I say that the particulars set out in the notice are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'AL AL'.

Allen Hicks
NATIONAL SECRETARY