

Notice setting out particulars of Alterations of Rules (other than eligibility rules) for 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

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

Attached to this Notice is the Declaration prescribed by regulation 126(2) of the *Fair Work (Registered Organisations) Regulations 2009* by an authorised officer of the CEPU, the National Secretary, Mr Allen Hicks, which details the action taken by the CEPU to make the alterations. Schedule A to the declaration details the particulars of the alterations.

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*

Alteration of the rules of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing & Allied Services Union of Australia

On the 21 December 2022, 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 give this notice of particulars of alterations to the rules of the CEPU and to make this declaration as required by regulation 126 of the *Fair Work (Registered Organisations) Regulations 2009*.
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 rules (“the divisional branch rules”) covering the New South Wales-Australian Capital Territory Branch (“NSW Branch”) of the Electrical, Energy and Services Division (“EE&S Division”) of the CEPU.
3. The particulars of the divisional branch rules alterations are attached to this declaration and labelled ‘Schedule A’.
4. **Action taken under the rules of the CEPU to make the alterations**

The alterations made to the divisional branch rules of the union, as detailed in this notice of alteration to the CEPU rules (other than the eligibility rules), were made in accordance with the rules of the CEPU as follows.

Pursuant to national rule 21, the CEPU National Council has exclusive power to make, amend or rescind the rules of the union. This power is subject to national rule 21.2 which requires that Divisional rules should not be made, amended or rescinded without the prior approval of the relevant Division. This is an application to alter the rules covering the NSW Branch of the EE&S Division of the CEPU (“the divisional branch rules”). In accordance with the requirements of national rule 21.2, the following action was taken by the EE&S Division prior to the referral of the alterations of the divisional branch rules to the CEPU National Council for its consideration and approval.

5. **Action taken under the rules by the NSW Branch of the Electrical, Energy and Services Division to make the alterations** – the NSW Branch of the Electrical, Energy and Services Division approved the alterations to the divisional branch rules, detailed in this notice, in accordance with the following process:
 - 5.1 Divisional branch rule 41.1 provides that; *“The Rules of the NSW Divisional Branch may be made, amended or rescinded by the NSW Divisional State Council.”*
 - 5.2 Divisional branch rule 20.3.2 in part provides that the NSW Divisional State Council shall hold regular meetings on the second Monday in the months of February, April, June, August, October and December.
 - 5.3 The NSW Divisional State Council met on 10 October 2022. This was the regularly convened October meeting.

- 5.4 As prescribed by divisional branch rule 19.2.4, a majority of the members elected to the NSW Divisional State Council were present at the meeting, thereby satisfying the quorum requirements of divisional branch rule 19.2.4.
- 5.5 At the October meeting, the NSW Divisional State Council unanimously approved the alterations to the divisional branch rules.
- 5.6 The Branch Secretary then referred the matter of the Divisional branch rules alterations to the Divisional Secretary for the approval of the EE&S Divisional Council or Executive in accordance with divisional rule 3.
6. **Action taken under the rules by the Electrical, Energy and Services Division** – the Electrical, Energy and Services Division approved the alterations to the divisional branch rules, detailed in this notice, in accordance with the following process:
 - 6.1 Rule 3 of the rules of the Electrical, Energy and Services Division (“the divisional rules”) requires that any alterations, amendments or rescission of a divisional rule or new divisional rule (which includes the divisional branch rules) be first adopted by the Divisional Council or Divisional Executive before being placed before the CEPU National Council for adoption.
 - 6.2 To facilitate this process, a meeting of the Divisional Executive was held on 2 December 2022. As required by divisional rule 13.2, on 3 November 2022, not less than 7 days prior to the meeting, the members of the Divisional Executive were notified in writing by the Divisional Secretary of the time, date and place of the meeting of the Divisional Executive.
 - 6.3 At the meeting of the Divisional Executive held on 2 December 2022, the Divisional Executive considered the matter of the divisional branch rules alterations as a late agenda item and unanimously approved the alterations.
 - 6.4 The quorum requirement of divisional rule 8.4 was satisfied as a majority of Divisional Executive members participated in the meeting.
 - 6.5 The EE&S Divisional Secretary then referred the matter of the divisional branch rules alterations to the CEPU National Council for its consideration and adoption.
7. **Action taken under the rules by the CEPU National Council to make the alterations** - The CEPU National Council approved the alterations to the divisional branch rules, detailed in this notice, in accordance with the following process:
 - 7.1 The annual meeting of the CEPU National Council was held on 6 December 2022. In accordance with national rule 7.4, this date was determined by the National Executive Officers.
 - 7.2 In accordance with national rule 7.9.1, the Agenda paper was prepared by the National Secretary prior to the annual meeting of National Council.
 - 7.3 On 31 October 2022, the National Secretary forwarded each member of the CEPU National Council a copy of the agenda paper and notice of the meeting, which, as required by national rule 7.9.3, was provided at least 30 days prior to the Annual Meeting.
 - 7.4 National rule 7.9.4 provides that late agenda items may be placed on the agenda by a National Executive Officer, a Divisional Council, or a Divisional Executive. In accordance with this rule, the National Secretary placed the alteration of the divisional branch rules on the agenda for the annual meeting of the National Council as a late agenda item.

- 7.5 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. With respect to the annual meeting the quorum requirement of rule 7.11 was satisfied as each Division was represented and a majority of National Councillors either directly participated in the meeting or directed their proxy to another National Councillor.
- 7.6 National rule 7.17, “Carrying of National Council Resolutions” requires that a resolution is carried if at least 60% of the votes are cast in favour of a resolution. The resolution to approve the rules alterations was unanimously supported by the National Councillors thereby satisfying the requirements of rule 7.17.

8. 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', is positioned above the typed name.

Allen Hicks
NATIONAL SECRETARY

Schedule A
PARTICULARS OF THE ALTERATIONS

Section B2 of the CEPU Rules governing the NSW Branch of the Electrical, Energy and Services Division (EE&S Division NSW Branch)
("the Divisional Branch Rules")

1. Delete rule 43 of the CEPU EE&S Division NSW Branch rules and insert a new rule 43 as follows:

~~43 – SUPERANNUATION OR RETIRING ALLOWANCES~~

~~43.1 — Retirement & Retiring Allowance for Officers and Staff~~

~~43.1.1 Full time officers and or employees of this NSW Divisional Branch shall retire on reaching 65 years of age.~~

~~43.1.2 Any employee who has completed 10 years' service at the time of retirement shall be paid a retiring allowance calculated on the basis of three weeks' salary at the ordinary rate for his/her position payable at the time such allowance is paid for each year calculated on a weekly basis.~~

~~43.1.3 Any employee whose services after 10 years' service are terminated other than for misconduct, or cease for any reason, shall be paid a retiring allowance calculated on the basis of three weeks' salary at the ordinary rate for his/her position payable at the time such allowance is paid for each year calculated on a weekly basis.~~

~~43.1.4 Any full-time officer who has completed 8 years' or more service as of the 1st September 1997, shall have the option of:~~

~~43.1.4.1 — At the time of retirement to be paid a retiring allowance calculated on the basis of three weeks' salary at the ordinary rate for his/her position payable at the time such allowance is paid for each year calculated on a weekly basis; or~~

~~43.1.4.2 — Have his/her retirement allowance entitlement in full or in part rolled over into an approved superannuation scheme. An officer who elects to exercise this option shall, from the time of his/her election, receive a payment equivalent of 5.8% of his/her salary entitlement paid into an approved superannuation scheme on a monthly basis.~~

~~43.1.5 Any full-time officer exercising the option at 43.1.4.1 whose services after 8 years' service are terminated other than for misconduct, or cease for any reason, shall be paid a retiring allowance calculated on the basis of three weeks' salary at the ordinary rate for his/her position payable at the time such allowance is paid for each year calculated on a weekly basis.~~

~~43.1.6 For the purposes of this sub-rule the death of an officer or employee shall be deemed to constitute a retirement or termination of his/her services.~~

~~43.1.7 From the 1st September 1997, all full-time officers who have less than 8 years' service shall receive a retirement allowance equivalent to 5.8% of salary paid on a monthly basis into an approved superannuation scheme from the commencement of their service.~~

~~43.1.8 In the event of the death of an officer or employee, the Union at its discretion may in discharge of its obligation under this rule pay the amount of any retiring allowance, either:~~

~~43.1.8.1 — to the spouse or partner of the deceased officer or employee or where the officer or employee does not leave a surviving spouse or partner, to such of the children of the deceased officer or employee of whose existence the Union becomes aware, on due enquiry, in equal shares, or~~

~~43.1.8.2 — to the legal representative of the deceased officer or employee.~~

~~43.1.9 Where a child of the deceased employee has not attained the age of twenty one years the Union may pay the share of such child to the legal representatives of the deceased officer or employee.~~

~~43.2 — Superannuation for Officials~~

~~43.2.1 The NSW Divisional State Council may arrange a Contributory Staff Superannuation Scheme with a reputable Assurance Society. Contributions may be made on behalf of a participating full-time official to the Contributory Staff Superannuation Scheme or where a full-time official has in their immediate prior employment been required to contribute to a Government, Semi-Government or other reputable superannuation fund, to such fund an employer's contribution not greater than that which would have been paid had such full-time official been a member of the Contributory Staff Superannuation Scheme.~~

~~43.2.2 Full-time officials for whom the NSW Divisional Branch contributes to such superannuation schemes as mentioned in sub-rule 43.2.1 shall not benefit from the provisions of sub-rule 43.1.4.1, except as follows:~~

~~43.2.2.1 — Where the premiums paid by the Union or the NSW Divisional Branch as the case may be, for those participating in the Superannuation Schemes prescribed by this rule are less than the benefits to which such official would have been entitled under sub-rule 43.1.4.1 had he/she not participated in such scheme, then the Union or the NSW Divisional Branch, as the case may be, shall pay to such official the difference between the premiums paid by the Union and/or the NSW Divisional Branch under such scheme in respect of the said official and the retiring or retirement allowance calculated in accordance with sub-rule 43.1.4.1 that would have been payable to such official had he/she not participated in such schemes.~~

~~43.3 — Superannuation for Officials and Staff~~

~~43.3.1 In addition to any other provision of this rule, the NSW Divisional Branch shall on the 1st September 1997, open an account in the name of individual officer and employee of the NSW Divisional Branch in an approved superannuation scheme and shall contribute to each account an amount equal to the amount prescribed by the superannuation guarantee levy and in the case of officials an amount equivalent to 8% of salary into an approved superannuation scheme.~~

~~Such amount shall be increased by 1% by the year 2000. Further, that any contributions paid shall not form part of the calculation for any other purpose under this rule.~~

2. Insert a new rule 43 as follows:

43 - SUPERANNUATION FOR OFFICIALS

- (a) The Union shall make employer superannuation contributions at the rate of 19% (comprising the Commonwealth Government Superannuation Guarantee Contribution (SGC) and additional employer superannuation contribution) for each officer of the Union, including Secretary, Assistant Secretary, and Organisers.
- (b) Each elected officer of the Union shall in addition to the provisions of 43(a), receive an additional employer superannuation contribution at the rate of 5.8%.
- (c) Each Officer that is not elected shall in addition to the provisions of 43(a), receive, following 12 months continuous service, an additional employer superannuation contribution as follows:
 - i. More than 1 year but less than 3 years - 1%
 - ii. More than 3 years but less than 5 years - 2%
 - iii. More than 5 years but less than 7 years - 3%
 - iv. More than 7 years but less than 9 years - 4%
 - v. More than 9 years but less than 10 years - 5%
 - vi. More than 10 years - 5.8%
- (d) Any increase to the SGC will be absorbed unless the superannuation guarantee rate exceeds 24.8%.
- (e) An officer as referred to in 43(a), who has reached their concessional contributions cap, may elect to have additional Superannuation payments in excess of the concessional contributions cap paid as wages, into an industry redundancy fund or elect to continue to have it paid into the nominated Superannuation account. An officer cannot make such an election if it would result in a breach of the Superannuation Guarantee. Any election must be made in writing by the officer and authorised by the State Council Executive.